



# IOWA ADMINISTRATIVE BULLETIN

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Pages 833 to 872

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## PREFACE

The Iowa Administrative Bulletin is published biweekly in pamphlet form pursuant to Iowa Code chapters 2B and 17A and contains Notices of Intended Action and rules adopted by state agencies.

It also contains Proclamations and Executive Orders of the Governor which are general and permanent in nature; Regulatory Analyses; effective date delays and objections filed by the Administrative Rules Review Committee; Agenda for monthly Administrative Rules Review Committee meetings; and other materials deemed fitting and proper by the Administrative Rules Review Committee.

The Bulletin may also contain public funds interest rates [12C.6]; workers' compensation rate filings [515A.6(7)]; usury rates [535.2(3)“a”]; agricultural credit corporation maximum loan rates [535.12]; and regional banking—notice of application and hearing [524.1905(2)].

**PLEASE NOTE:** *Italics* indicate new material added to existing rules; ~~strike through letters~~ indicate deleted material.

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STEPHANIE A. HOFF, Deputy Editor

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**PUBLIC SAFETY DEPARTMENT[661]**

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## Schedule for Rule Making 2007

NOTICE SUBMISSION DEADLINE	NOTICE PUB. DATE	HEARING OR COMMENTS 20 DAYS	FIRST POSSIBLE ADOPTION DATE 35 DAYS	ADOPTED FILING DEADLINE	ADOPTED PUB. DATE	FIRST POSSIBLE EFFECTIVE DATE	POSSIBLE EXPIRATION OF NOTICE 180 DAYS
<b>*Dec. 27 '06*</b>	Jan. 17 '07	Feb. 6 '07	Feb. 21 '07	Feb. 23 '07	Mar. 14 '07	Apr. 18 '07	July 16 '07
Jan. 12	Jan. 31	Feb. 20	Mar. 7	Mar. 9	Mar. 28	May 2	July 30
Jan. 26	Feb. 14	Mar. 6	Mar. 21	Mar. 23	Apr. 11	May 16	Aug. 13
Feb. 9	Feb. 28	Mar. 20	Apr. 4	Apr. 6	Apr. 25	May 30	Aug. 27
Feb. 23	Mar. 14	Apr. 3	Apr. 18	Apr. 20	May 9	June 13	Sept. 10
Mar. 9	Mar. 28	Apr. 17	May 2	May 4	May 23	June 27	Sept. 24
Mar. 23	Apr. 11	May 1	May 16	<b>***May 16***</b>	June 6	July 11	Oct. 8
Apr. 6	Apr. 25	May 15	May 30	June 1	June 20	July 25	Oct. 22
Apr. 20	May 9	May 29	June 13	June 15	July 4	Aug. 8	Nov. 5
May 4	May 23	June 12	June 27	<b>***June 27***</b>	July 18	Aug. 22	Nov. 19
<b>***May 16***</b>	June 6	June 26	July 11	July 13	Aug. 1	Sept. 5	Dec. 3
June 1	June 20	July 10	July 25	July 27	Aug. 15	Sept. 19	Dec. 17
June 15	July 4	July 24	Aug. 8	Aug. 10	Aug. 29	Oct. 3	Dec. 31
<b>***June 27***</b>	July 18	Aug. 7	Aug. 22	<b>***Aug. 22***</b>	Sept. 12	Oct. 17	Jan. 14 '08
July 13	Aug. 1	Aug. 21	Sept. 5	Sept. 7	Sept. 26	Oct. 31	Jan. 28 '08
July 27	Aug. 15	Sept. 4	Sept. 19	Sept. 21	Oct. 10	Nov. 14	Feb. 11 '08
Aug. 10	Aug. 29	Sept. 18	Oct. 3	Oct. 5	Oct. 24	Nov. 28	Feb. 25 '08
<b>***Aug. 22***</b>	Sept. 12	Oct. 2	Oct. 17	Oct. 19	Nov. 7	Dec. 12	Mar. 10 '08
Sept. 7	Sept. 26	Oct. 16	Oct. 31	Nov. 2	Nov. 21	Dec. 26	Mar. 24 '08
Sept. 21	Oct. 10	Oct. 30	Nov. 14	<b>***Nov. 14***</b>	Dec. 5	Jan. 9 '08	Apr. 7 '08
Oct. 5	Oct. 24	Nov. 13	Nov. 28	Nov. 30	Dec. 19	Jan. 23 '08	Apr. 21 '08
Oct. 19	Nov. 7	Nov. 27	Dec. 12	<b>***Dec. 12***</b>	Jan. 2 '08	Feb. 6 '08	May 5 '08
Nov. 2	Nov. 21	Dec. 11	Dec. 26	<b>***Dec. 26***</b>	Jan. 16 '08	Feb. 20 '08	May 19 '08
<b>***Nov. 14***</b>	Dec. 5	Dec. 25	Jan. 9 '08	Jan. 11 '08	Jan. 30 '08	Mar. 5 '08	June 2 '08
Nov. 30	Dec. 19	Jan. 8 '08	Jan. 23 '08	Jan. 25 '08	Feb. 13 '08	Mar. 19 '08	June 16 '08
<b>***Dec. 12***</b>	Jan. 2 '08	Jan. 22 '08	Feb. 6 '08	Feb. 8 '08	Feb. 27 '08	Apr. 2 '08	June 30 '08
<b>***Dec. 26***</b>	Jan. 16 '08	Feb. 5 '08	Feb. 20 '08	Feb. 22 '08	Mar. 12 '08	Apr. 16 '08	July 14 '08

### PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
15	Wednesday, December 27, 2006	January 17, 2007
16	Friday, January 12, 2007	January 31, 2007
17	Friday, January 26, 2007	February 14, 2007

PLEASE NOTE:

Rules will not be accepted after **12 o'clock noon** on the Friday filing deadline days unless prior approval has been received from the Administrative Rules Coordinator's office.

If the filing deadline falls on a legal holiday, submissions made on the following Monday will be accepted.

**\*\*\*Note change of filing deadline\*\*\***

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The Administrative Rules Review Committee will hold a special meeting on Wednesday, January 3, 2007, at 1 p.m. and Thursday, January 4, 2007, at 8:30 a.m. in Room 116, State Capitol, Des Moines, Iowa. The following rules will be reviewed:

#### **AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]**

Animal welfare—fostering oversight organizations and foster care homes, 67.12, Notice **ARC 5623B** ..... 12/20/06

#### **ARCHITECTURAL EXAMINING BOARD[193B]**

Professional Licensing and Regulation Bureau[193]

COMMERCE DEPARTMENT[181]“umbrella”

Reinstatement of certificate of registration to inactive status, 2.6, 2.6(1)“a”(4), 2.6(2)“a”(4),

2.7 to 2.10, 2.10(2), 2.10(4) to 2.10(7), 2.11, Filed **ARC 5610B** ..... 12/20/06

#### **ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]**

Housing fund, ch 25, Filed Emergency After Notice **ARC 5609B** ..... 12/20/06

Renewable fuel infrastructure board, chs 311 to 314, Filed Emergency After Notice **ARC 5608B** ..... 12/20/06

#### **EDUCATIONAL EXAMINERS BOARD[282]**

EDUCATION DEPARTMENT[281]“umbrella”

International teacher exchange license, 14.120(4), Notice **ARC 5589B** ..... 12/6/06

Exceptional learner program, 14.123(3), 15.1(1)“c,” 15.10(2)“d,” 15.12(2)“d,” Notice **ARC 5588B** ..... 12/6/06

Practitioner licenses and endorsements, 14.129(1), 15.1 to 15.20, Notice **ARC 5591B** ..... 12/6/06

Evaluator endorsement, 20.57(1)“c” and “d,” Notice **ARC 5590B** ..... 12/6/06

Paraeducator certificate application and renewal fees, 14.121(1), 22.5, 22.13, Notice **ARC 5592B** ..... 12/6/06

#### **EDUCATION DEPARTMENT[281]**

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17.8(7), 17.10, 17.14(4)“b,” Filed **ARC 5605B** ..... 12/6/06

Educational improvement projects, ch 62, Filed **ARC 5606B** ..... 12/6/06

#### **ELDER AFFAIRS DEPARTMENT[321]**

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#### **ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C]**

Professional Licensing and Regulation Bureau[193]

COMMERCE DEPARTMENT[181]“umbrella”

Engineering licensure—special work experience, 4.1(7)“d,” Filed **ARC 5613B** ..... 12/20/06

Complaints and investigations, 9.1, Filed **ARC 5614B** ..... 12/20/06

#### **ENVIRONMENTAL PROTECTION COMMISSION[567]**

NATURAL RESOURCES DEPARTMENT[561]“umbrella”

Air quality, 21.2(4)“c,” 22.6, 22.7(1), 22.7(2)“d,” 22.105(2), 22.106(6), 22.201(2), 22.300(3), 23.1(2),

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Water quality certification, 61.2(2)“h,” Notice **ARC 5598B** ..... 12/6/06

Sanitary landfills for municipal solid waste—groundwater protection systems for the disposal

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chs 111, 113, Notice **ARC 5597B** ..... 12/6/06

Mercury-added switch recovery from end-of-life vehicles, ch 215, Filed **ARC 5600B** ..... 12/6/06

#### **HOMELAND SECURITY AND EMERGENCY MANAGEMENT DIVISION[605]**

PUBLIC DEFENSE DEPARTMENT[601]“umbrella”

Homeland security and emergency response teams, ch 12, Notice **ARC 5624B** ..... 12/20/06

#### **HUMAN SERVICES DEPARTMENT[441]**

Aftercare services and supports, 7.1, adopt ch 187, Filed Emergency After Notice **ARC 5582B** ..... 12/6/06

Increase in personal needs allowance for nursing facility residents, 75.16(2)“a,”

81.23, Filed **ARC 5579B** ..... 12/6/06

Provider enrollment forms, 79.14(1), 79.14(2), 79.14(6), 81.13(1)“b,” 82.3(1)“b,” 88.44(3)“a”(1),

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- Licensure of long-term acute care hospital within a currently licensed hospital,  
51.1, 51.2, 51.4, 51.5(3), Filed ARC 5585B ..... 12/6/06
- Person directed care environments in long-term care facilities, amendments to chs 58, 61,  
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- Admission procedures for long-term care facilities, 58.12(1)"l," 64.6, 65.10, Filed ARC 5586B ..... 12/6/06

**INSURANCE DIVISION[191]**

COMMERCE DEPARTMENT[181]"umbrella"

- Organization of division, ch 1, Notice ARC 5594B ..... 12/6/06
- Indexed products training, 15.80 to 15.87, Notice ARC 5620B ..... 12/20/06
- Iowa business opportunity sales Act, rescind ch 55, Filed ARC 5572B ..... 12/6/06

**LABOR SERVICES DIVISION[875]**

WORKFORCE DEVELOPMENT DEPARTMENT[871]"umbrella"

- Federal safety and health regulations—adoption by reference, 10.4, 10.20, 26.1, Notice ARC 5596B ..... 12/6/06
- Civil penalties, ch 34, Notice ARC 5583B ..... 12/6/06
- Water heaters, 90.2, 90.4, 91.6, ch 95, Notice ARC 5619B ..... 12/20/06
- Construction contractor registration; asbestos removal and encapsulation, 150.1, 150.2, 150.4(8)"a,"  
150.6(2), 150.11(11), 155.6(10), 155.9(2), Filed ARC 5618B ..... 12/20/06
- Professional boxing and shoot fighting—blood-borne disease testing, 173.54, 177.5(11), Notice ARC 5584B ..... 12/6/06

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NATURAL RESOURCES DEPARTMENT[561]"umbrella"

- Development and management of recreation trails on state forests, parks, preserves and  
recreation areas, ch 67, Filed ARC 5601B ..... 12/6/06
- Fishing regulations—length and daily bag limits, 81.2(2), 81.2(3), 81.2(12), Filed ARC 5602B ..... 12/6/06
- Commercial and sport harvesting of mussels, 87.1, 87.2, Notice ARC 5603B ..... 12/6/06
- Nonresident deer hunting, 94.1, 94.1(1)"c," 94.6(1), 94.6(2), 94.8(2), 94.11, Notice ARC 5604B ..... 12/6/06

**PHARMACY EXAMINERS BOARD[657]**

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

- Notification of patients regarding permanent pharmacy closure,  
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- Disciplinary action—failure to provide records, 36.1(4)"ag," Filed ARC 5621B ..... 12/20/06

**PROFESSIONAL LICENSURE DIVISION[645]**

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

- Behavioral science examiners, 31.5(2)"b"(3), 31.7(2)"b"(3), 31.8"7," Notice ARC 5571B ..... 12/6/06
- Interpreters for the hearing impaired examiners, 361.1, 361.2(4) to 361.2(8),  
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**PUBLIC HEALTH DEPARTMENT[641]**

- Testing fees for emergency medical care candidates for certification, 131.4(1)"k,"  
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**PUBLIC SAFETY DEPARTMENT[661]**

- Manufactured or mobile home retailers, manufacturers, and distributors—waivers,  
appeals, nonpayment of child support, 372.5(4), 372.9, Notice ARC 5616B, also  
Filed Emergency ARC 5617B ..... 12/20/06

**RECORDS COMMISSION[671]**

- Management of government records—definitions, 1.2, Filed ARC 5625B ..... 12/20/06

**REVENUE DEPARTMENT[701]**

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**UTILITIES DIVISION[199]**

COMMERCE DEPARTMENT[181]"umbrella"

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Filing of line and pole replacement data, 20.18(7)"i," 25.3(1), 25.3(3)"b" and "d,"  
 25.3(4), Notice **ARC 5612B** ..... 12/20/06

**ADMINISTRATIVE RULES REVIEW COMMITTEE MEMBERS**

Regular statutory meetings are held the second Tuesday of each month at the seat of government as provided in Iowa Code section 17A.8. A special meeting may be called by the Chair at any place in the state and at any time.

**EDITOR'S NOTE: Terms ending April 30, 2007.**

Senator Michael Connolly  
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Dubuque, Iowa 52001

Senator Thomas Courtney  
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Burlington, Iowa 52601

Senator John P. Kibbie  
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**Administrative Rules Coordinator**  
Governor's Ex Officio Representative  
Capitol, Room 11  
Des Moines, Iowa 50319

AGENCY	HEARING LOCATION	DATE AND TIME OF HEARING
<b>EDUCATIONAL EXAMINERS BOARD[282]</b>		
International teacher exchange license, 14.120(4) IAB 12/6/06 <b>ARC 5589B</b>	Room 3 SW, Third Floor Grimes State Office Bldg. Des Moines, Iowa	December 27, 2006 1 p.m.
Licenses and endorsements— exceptional learner, 14.123(3), 15.1(1), 15.10(2), 15.12(2) IAB 12/6/06 <b>ARC 5588B</b>	Room 3 SW, Third Floor Grimes State Office Bldg. Des Moines, Iowa	December 27, 2006 1 p.m.
Licenses and endorsements— authorization, 14.129(1), 15.1 to 15.20 IAB 12/6/06 <b>ARC 5591B</b>	Room 3 SW, Third Floor Grimes State Office Bldg. Des Moines, Iowa	December 27, 2006 1 p.m.
Evaluator endorsement and license, 20.57(1) IAB 12/6/06 <b>ARC 5590B</b>	Room 3 SW, Third Floor Grimes State Office Bldg. Des Moines, Iowa	December 27, 2006 1 p.m.
Paraeducator certificates— renewal and fees, 22.5, 22.13 IAB 12/6/06 <b>ARC 5592B</b>	Room 3 SW, Third Floor Grimes State Office Bldg. Des Moines, Iowa	December 27, 2006 1 p.m.
<b>ENVIRONMENTAL PROTECTION COMMISSION[567]</b>		
Air quality, amendments to chs 21 to 23, 25, 34 IAB 12/6/06 <b>ARC 5599B</b>	Conference Rooms Air Quality Bureau 7900 Hickman Road Urbandale, Iowa	January 8, 2007 1 p.m.
Water quality, 61.2(2)“h” IAB 12/6/06 <b>ARC 5598B</b>	5th Floor E. Conference Room Wallace State Office Bldg. Des Moines, Iowa	December 26, 2006 1 p.m.
Solid and nonhazardous waste, amend chs 101, 102, 104; rescind chs 111, 113; adopt ch 113 IAB 12/6/06 <b>ARC 5597B</b>	Suite D, DNR Field Office 1 909 West Main St. Manchester, Iowa	January 22, 2007 10 a.m.
	DNR Field Office 4 1401 Sunnyside Lane Atlantic, Iowa	January 24, 2007 10 a.m.
	5th Floor Conference Rooms Wallace State Office Bldg. Des Moines, Iowa	January 26, 2007 10 a.m.
<b>HOMELAND SECURITY AND EMERGENCY MANAGEMENT DIVISION[605]</b>		
Homeland security and emergency response teams, ch 12 IAB 12/20/06 <b>ARC 5624B</b>	Division Conference Room Building W-4, Camp Dodge Johnston, Iowa	January 11, 2007 1 p.m.

**INSURANCE DIVISION[191]**

Organization of division, ch 1 IAB 12/6/06 <b>ARC 5594B</b>	Division Conference Room 330 Maple St. Des Moines, Iowa	December 26, 2006 1 p.m.
Unfair trade practices—indexed products training, 15.80 to 15.87 IAB 12/20/06 <b>ARC 5620B</b>	Division Conference Room 330 Maple St. Des Moines, Iowa	January 9, 2007 1 p.m.

**LABOR SERVICES DIVISION[875]**

OSHA standards—respiratory protection; hexavalent chromium exposure, 10.4, 10.20, 26.1 IAB 12/6/06 <b>ARC 5596B</b>	Stanley Room 1000 E. Grand Ave. Des Moines, Iowa	December 28, 2006 1:30 p.m.
Civil penalties, ch 34 IAB 12/6/06 <b>ARC 5583B</b>	Stanley Room 1000 E. Grand Ave. Des Moines, Iowa	December 27, 2006 1:30 p.m. (If requested)
Water heaters, 90.2, 90.4, 91.6, ch 95 IAB 12/20/06 <b>ARC 5619B</b>	Capitol View Room 1000 E. Grand Ave. Des Moines, Iowa	January 10, 2007 10 a.m. (If requested)
Professional boxing and shoot fighting—blood-borne disease testing, 173.54, 177.5(11) IAB 12/6/06 <b>ARC 5584B</b>	Capitol View Room 1000 E. Grand Ave. Des Moines, Iowa	December 27, 2006 9 a.m. (If requested)

**NATURAL RESOURCE COMMISSION[571]**

Commercial mussel harvest closed; sport harvesting, 87.1, 87.2 IAB 12/6/06 <b>ARC 5603B</b>	4th Floor Conf. Rm. Wallace State Office Bldg. Des Moines, Iowa	January 4, 2007 1 p.m.
Nonresident deer hunting, 94.1, 94.6, 94.8(2), 94.11 IAB 12/6/06 <b>ARC 5604B</b>	4th Floor E. Conf. Rm. Wallace State Office Bldg. Des Moines, Iowa	January 11, 2007 10:30 a.m.

**PROFESSIONAL LICENSURE DIVISION[645]**

Licensure of marital and family therapists and mental health counselors, 31.5(2), 31.7(2), 31.8 IAB 12/6/06 <b>ARC 5571B</b>	Fifth Floor Board Conf. Rm. Lucas State Office Bldg. Des Moines, Iowa	January 9, 2007 9 to 9:30 a.m.
Interpreter for the hearing impaired practitioners—licensure, continuing education, discipline, 361.1, 361.2, 361.5(3), 362.2(2), 363.2(31) IAB 12/20/06 <b>ARC 5615B</b>	Fifth Floor Board Conf. Rm. Lucas State Office Bldg. Des Moines, Iowa	January 9, 2007 9:30 to 10 a.m.

**PUBLIC SAFETY DEPARTMENT[661]**

Manufactured or mobile home retailers, manufacturers, and distributors, 372.5, 372.9 IAB 12/20/06 <b>ARC 5616B</b> (See also <b>ARC 5617B</b> herein)	Fire Marshal Division Conf. Rm. Suite N 401 SW 7th St. Des Moines, Iowa	January 19, 2007 9:30 a.m.
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**UTILITIES DIVISION[199]**

Filing of line and pole replacement data, 20.18(7), 25.3 IAB 12/20/06 <b>ARC 5612B</b>	Hearing Room 350 Maple St. Des Moines, Iowa	February 7, 2007 10 a.m.
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**CITATION of Administrative Rules**

The Iowa Administrative Code shall be cited as (agency identification number) IAC (chapter, rule, subrule, lettered paragraph, or numbered subparagraph).

441 IAC 79	(Chapter)
441 IAC 79.1(249A)	(Rule)
441 IAC 79.1(1)	(Subrule)
441 IAC 79.1(1)“a”	(Paragraph)
441 IAC 79.1(1)“a”(1)	(Subparagraph)

The Iowa Administrative Bulletin shall be cited as IAB (volume), (number), (publication date), (page number), (ARC number).

IAB Vol. XII, No. 23 (5/16/90) p. 2050, ARC 872A

Due to reorganization of state government by 1986 Iowa Acts, chapter 1245, it was necessary to revise the agency identification numbering system, i.e., the bracketed number following the agency name.

“Umbrella” agencies and elected officials are set out below at the left-hand margin in CAPITAL letters.

Divisions (boards, commissions, etc.) are indented and set out in lowercase type under their statutory “umbrellas.”

Other autonomous agencies which were not included in the original reorganization legislation as “umbrella” agencies are included alphabetically in small capitals at the left-hand margin, e.g., BEEF INDUSTRY COUNCIL, IOWA[101].

The following list will be updated as changes occur:

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   Agricultural Development Authority[25]  
   Soil Conservation Division[27]  
 ATTORNEY GENERAL[61]  
 AUDITOR OF STATE[81]  
 BEEF INDUSTRY COUNCIL, IOWA[101]  
 BLIND, DEPARTMENT FOR THE[111]  
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   Alcoholic Beverages Division[185]  
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     Engineering and Land Surveying Examining Board[193C]  
     Landscape Architectural Examining Board[193D]  
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     Real Estate Appraiser Examining Board[193F]  
     Interior Design Examining Board[193G]  
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    State Public Defender[493]  
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LIVESTOCK HEALTH ADVISORY COUNCIL[521]  
LOTTERY AUTHORITY, IOWA[531]  
MANAGEMENT DEPARTMENT[541]  
    Appeal Board, State[543]  
    City Finance Committee[545]  
    County Finance Committee[547]  
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TURKEY MARKETING COUNCIL, IOWA[787]  
UNIFORM STATE LAWS COMMISSION[791]  
VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]  
VETERINARY MEDICINE BOARD[811]  
VOLUNTEER SERVICE, IOWA COMMISSION ON[817]  
VOTER REGISTRATION COMMISSION[821]  
WORKFORCE DEVELOPMENT DEPARTMENT[871]  
    Labor Services Division[875]  
    Workers' Compensation Division[876]  
    Workforce Development Board and  
    Workforce Development Center Administration Division[877]

AGENCY	PROGRAM	SERVICE DELIVERY AREA	ELIGIBLE APPLICANTS	TYPES OF PROJECTS	E-Grants Application DUE DATE
Iowa Homeland Security & Emergency Management Division (HLSEM)	Flood Mitigation Assistance (FMA) FY2007 FMA Program authorized by the National Flood Insurance Reform Act of 1994, Title V, Sections 553 & 554, Public Law 103-325 U.S.C. 515a., to reduce the number of repetitive loss claims against the National Flood Insurance Program (NFIP).	Statewide for NFIP participants	<p>Mitigation Plan Requirement: To be eligible for Project grants, an eligible Sub-applicant must develop, and have approved by the FEMA Regional Director, a Flood Mitigation Plan in accordance with 44 CFR 78.5</p> <ul style="list-style-type: none"> <li>• State-level agencies; Local communities;</li> <li>• Private individuals and private non-profit (PNP) organizations are <b>NOT</b> eligible; however, a relevant State agency or local community may apply to the applicant for assistance to mitigate private or PNP structures.</li> <li>• Federally-recognized Indian tribal governments; to include State-recognized Indian tribes; authorized Indian tribal organizations, and Alaska Native villages)</li> <li>• NFIP Participation: Communities must not be on probation, suspended or withdrawn from the NFIP. Property owners must have a current flood insurance policy and flood insurance shall be maintained in perpetuity on an improved property.</li> </ul> <p>Applicants must complete an application through the Electronic Grant (e-Grants) System. To learn more about the e-grant system and the FMA program use the following link on HLSEM's website:  <a href="http://www.iowahomelandsecurity.org/asp/CoEM_FR/grant/index.asp">http://www.iowahomelandsecurity.org/asp/CoEM_FR/grant/index.asp</a></p> <p><b>For additional information please contact:</b></p> <p><b>John Wageman 515-725-3225</b>  <b>Dennis Harper 515-725-3277</b></p> <p><b>Iowa Homeland Security and Emergency Management Division</b>  <b>Camp Dodge, Bld W4</b>  <b>Johnston, Iowa 50131</b></p>	<ul style="list-style-type: none"> <li>• FMA is to assist State and Local Governments in funding cost-effective actions that reduce or eliminate the long-term risk of flood damage to buildings, manufactured homes, and other insurable structures.</li> <li>• Planning Grant to Communities to assess the flood risks and identify actions to reduce that risk.</li> </ul> <p>Eligible projects include, but are not limited to:</p> <ul style="list-style-type: none"> <li>• Acquisition of insured structures and underlying real property in fee simple and easements restricting real property to open space uses.</li> <li>• Relocation of insured structures from acquired or restricted real property to non hazard-prone sites.</li> <li>• Demolition and removal of insured structures on acquired or restricted real property.</li> </ul> <p>Anticipated Minimum Funding:</p> <ul style="list-style-type: none"> <li>• Planning - \$15,800</li> <li>• Project - \$150,660</li> </ul>	February 12, 2007

**ARC 5623B****AGRICULTURE AND LAND  
STEWARDSHIP DEPARTMENT[21]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 162.16, the Department of Agriculture and Land Stewardship gives Notice of Intended Action to amend Chapter 67, “Animal Welfare,” Iowa Administrative Code.

This proposed amendment is intended to permit a licensed animal shelter or a licensed pound to apply to the Iowa Department of Agriculture and Land Stewardship to become a fostering oversight organization so that the shelter or pound can utilize foster care homes as part of its program for caring for abandoned or surrendered animals.

Any interested person may make written suggestions or comments on the proposed amendment prior to 4:30 p.m. on January 9, 2007. Such written material should be directed to Dr. David D. Schmitt, Acting State Veterinarian, Animal Industry Bureau, Iowa Department of Agriculture and Land Stewardship, Wallace State Office Building, Des Moines, Iowa 50319. Comments may also be submitted by fax to (515)281-4282 or by E-mail to [David.Schmitt@idals.state.ia.us](mailto:David.Schmitt@idals.state.ia.us).

This amendment is intended to implement Iowa Code chapter 162.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee’s review of this rule making.

The following amendment is proposed.

Amend 21—Chapter 67 by adopting the following **new** rule:

**21—67.12(162) Fostering oversight organizations and foster care homes.**

**67.12(1)** As used in this rule, unless the context otherwise requires:

“Foster care home” means a private residence that is authorized to provide temporary shelter and care for an animal which has been accepted by a fostering oversight organization.

“Fostering oversight organization” means a licensed animal shelter or a licensed pound, as defined in Iowa Code chapter 162, which has been authorized by the department to utilize foster care homes in its operation.

**67.12(2)** A person shall not operate a foster care home or operate an organization that utilizes a foster care home unless the person is in compliance with this rule and other applicable provisions of this chapter and Iowa Code chapter 162.

**67.12(3)** A licensed animal shelter or licensed pound may apply to the department for a permit authorizing the shelter or pound to utilize one or more foster care homes in carrying out its mission of providing for the care and maintenance of an animal which has been taken in or entrusted to the animal shelter or pound. For purposes of this rule, an animal shelter

or pound which has been granted such authorization shall be considered a fostering oversight organization.

**67.12(4)** Neither an animal shelter nor a pound may utilize a foster care home unless it has been granted authorization by the department to be a fostering oversight organization. An animal shelter or pound which uses a foster care home without first obtaining a permit authorizing the shelter or pound to be a fostering oversight organization shall be considered to be operating illegally, shall be subject to suspension or revocation of its license to operate, and may be subject to other penalties authorized in Iowa Code chapter 162.

**67.12(5)** A licensed animal shelter or a licensed pound seeking to obtain a permit to be a fostering oversight organization shall make application to the department on a form prescribed by the department. The application shall provide sufficient information to permit the department to determine the ability of the proposed fostering oversight organization to provide adequate screening and oversight of any foster care home operating under the authority of the fostering oversight organization. Such application shall include, but is not limited to, the following information:

a. The proposed fostering oversight organization’s plan for screening a prospective foster care home. Such plan shall include the criteria to be used by the fostering oversight organization in determining whether a person who will be operating a foster care home is capable of caring for the animals that may be placed in the foster care home.

b. The proposed fostering oversight organization’s plan for providing oversight to the foster care home. The plan shall include the frequency of inspections of the foster care home by the fostering oversight organization and the criteria to be used by the fostering oversight organization in reviewing the foster care home during periodic inspections. The plan shall also include the actions to be taken by the fostering oversight organization in the event that the fostering oversight organization determines that the foster care home is not adequately providing for the animals in the foster care home.

c. The name, address, and telephone number of the staff person connected with the proposed fostering oversight organization who will have primary responsibility for administering the proposed foster care program.

d. The name, address, and telephone number of a secondary staff person connected with the proposed fostering oversight organization who will have responsibility for administering the proposed foster care program in the absence of the primary administrator.

**67.12(6)** The permit authorizing an animal shelter or pound to act as a fostering oversight organization shall be valid for 12 months and will terminate on the anniversary of its granting, unless the fostering oversight organization applies for a renewal of its status and such renewal is granted.

**67.12(7)** A fostering oversight organization shall require that all persons seeking to operate a foster care home under the fostering oversight organization submit a written application to the fostering oversight organization specifying the proposed foster care home’s qualifications, including, but not limited to, the ability of the foster care home to provide adequate care, exercise, feed, water, shelter, space, and veterinary care.

**67.12(8)** A fostering oversight organization shall not be authorized to approve more than ten foster care homes per species. In granting a permit to a fostering oversight organization, the department may further restrict the number of foster care homes a particular fostering oversight organization may utilize.

## AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21](cont'd)

**67.12(9)** A fostering oversight organization shall not authorize a foster care home to have in its care more than 4 animals over four months of age or 12 animals less than four months of age, unless the animals less than four months of age are from no more than two biological litters.

**67.12(10)** A person who has been found to have engaged in or participated in an act constituting animal abandonment, neglect, cruelty, or abuse shall not be authorized to operate a foster care home. In addition, if a person has had a license or permit issued under Iowa Code chapter 162 or under the United States Department of Agriculture's animal care program revoked or has surrendered that person's license in lieu of revocation, then that person shall not be authorized to operate a foster care home.

**67.12(11)** The fostering oversight organization shall retain a copy of all the following documents for a period of 24 months and shall make such documents available for inspection by the department during regular business hours:

- a. Applications to operate a foster care home, including any written approvals, conditional approvals, or denials.
- b. Inspections or other reports relating to the operation of a foster care home.
- c. Any written complaints or notes written by staff of the fostering oversight organization relating to an oral complaint against a foster care home.
- d. Any documents relating to the investigation or other resolution of a complaint regarding a foster care home.
- e. Any documents relating to the revocation or suspension of a foster care home's authorization.

**67.12(12)** The fostering oversight organization shall maintain detailed records as to which animals have been placed in a foster care home, when each animal was placed in a foster care home, and the ultimate disposition of each animal.

**67.12(13)** All adoptions and euthanasias of animals placed in a foster care home shall be the responsibility of the fostering oversight organization and shall not be performed by the foster care home, unless an emergency euthanasia must be performed by a licensed veterinarian to prevent the needless suffering of the animal.

**67.12(14)** All deaths, injuries, or emergency euthanasias occurring within a foster care home shall be reported to the fostering oversight organization within 24 hours of the event.

**67.12(15)** It is the primary responsibility of the fostering oversight organization to provide for oversight and regulation of its foster care homes; however, the department may choose to inspect a foster care home if the department believes that it would be in the best interests of the animals being maintained in the foster care home to conduct the inspection or if the department deems an inspection is desirable to determine whether a fostering oversight organization is properly fulfilling its role of screening and oversight of foster care homes. If the department determines that either serious or chronic problems exist in a foster care home, the department may order the fostering oversight organization to suspend or rescind the authorization of the foster care home. The fostering oversight organization shall immediately obtain physical examinations of all animals previously placed in the foster care home.

**67.12(16)** If the department determines that a fostering oversight organization is not providing adequate screening or oversight to its foster care homes, then the department may suspend or rescind the fostering oversight organization's authorization to use foster care homes.

**67.12(17)** If the department suspends or revokes the license of an animal shelter or pound and that animal shelter or

pound is also a fostering oversight organization, then the authorization of the animal shelter or pound to operate as a fostering oversight organization shall immediately cease, and the authorization of the foster care homes operating under that fostering oversight organization shall also immediately cease.

This rule is intended to implement Iowa Code chapter 162.

**ARC 5624B**

## HOMELAND SECURITY AND EMERGENCY MANAGEMENT DIVISION[605]

### Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 17A.3, 29C.8 and 29C.20, the Homeland Security and Emergency Management Division proposes to adopt Chapter 12, "Homeland Security and Emergency Response Teams," Iowa Administrative Code.

New Chapter 12 is intended to implement 2006 Iowa Acts, House File 2797 [chapter 1185], which provides for changes to Iowa Code chapter 29C. Chapter 12 is intended to specify how homeland security and emergency response teams, which may be created by the Administrator, are created, deployed and funded.

Consideration will be given to all written suggestions or comments on the proposed amendment on or before January 9, 2007. Such written materials should be sent to the Administrative Rules Manager, Iowa Homeland Security and Emergency Management Division, Camp Dodge, Building W-4, 7105 NW 70th Avenue, Johnston, Iowa 50131; fax (515)725-3260.

Also, there will be a public hearing on January 11, 2007, at 1 p.m. in the Homeland Security and Emergency Management Division Conference Room in the Homeland Security and Emergency Management Division offices located in Building W-4 at Camp Dodge in Johnston, Iowa, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the rules.

Any persons who intend to attend the public hearing and have special requirements such as hearing or mobility impairments should contact the Homeland Security and Emergency Management Division and advise of any specific needs.

This amendment is intended to implement Iowa Code sections 29C.8 and 29C.20 as amended by 2006 Iowa Acts, chapter 1185, sections 62, 63, and 64.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendment is proposed.

Adopt new 605—Chapter 12 as follows:

## HOMELAND SECURITY AND EMERGENCY MANAGEMENT DIVISION[605](cont'd)

CHAPTER 12  
HOMELAND SECURITY AND  
EMERGENCY RESPONSE TEAMS

**605—12.1(29C) Purpose.** The duties of the administrator of the homeland security and emergency management division include the development and ongoing operation of homeland security and emergency response teams to be deployed by the state to supplement and enhance local resources during times of disaster and emergency. These rules are intended to specify how teams and team members will be designated, minimum standards that shall be maintained, and the use of the teams.

**605—12.2(29C) Definitions.**

“Administrator” means the administrator of the homeland security and emergency management division of the department of public defense.

“First responder advisory committee” means the advisory committee created by the administrator for the purpose of providing advice on public safety response issues within Iowa.

“Governor’s disaster proclamation” means the proclamation of disaster emergency issued by the governor in accordance with Iowa Code section 29C.6.

**605—12.3(29C) Homeland security and emergency response teams.**

**12.3(1)** The administrator shall issue requests to create homeland security and emergency response teams based on identified needs, on recommendations from the first responder advisory committee, and at the request of the governor.

**12.3(2)** Each team shall be designated by the administrator. To be eligible for designation, a team shall provide a written application to the administrator that details the following information:

- a. Type of assistance that the team provides.
- b. Emergency response team information.
  - (1) Team name.
  - (2) Team location.
  - (3) 24/7 contact information and procedures.
  - (4) Team agency, including head of agency and contact information.
  - (5) Team commander and assistant commander, including contact information.
  - (6) Title, names, and responsibilities of response personnel assigned to the team.
- c. Listing of applicable local, state, and national standards and certifications to which team members are trained and certified.
- d. Detailed listing of the team’s major response assets that are related to the team’s mission.
- e. Listing of communications assets, including radio frequencies used and any interoperability capabilities.
- f. An estimate of the time required to assemble the team members and assets upon the request of the administrator or governor.

**12.3(3)** Upon receipt of the written application from the team, the administrator shall review the application. The administrator may seek additional information from the team. The team shall provide the requested information in a timely fashion.

**12.3(4)** Following approval of the application, the administrator may issue a letter formally designating the team as an “Iowa homeland security and emergency response team” in accordance with Iowa Code section 29C.8. The administra-

tor may enter into an agreement with the team in accordance with Iowa Code chapter 28E.

**12.3(5)** Upon acceptance as a homeland security and emergency response team, the team shall routinely update all records to accurately reflect membership rosters and major assets at the team’s disposal. The team shall update records anytime personnel are added to or removed from the team.

**605—12.4(29C) Use of homeland security and emergency response teams.**

**12.4(1)** A designated team shall be deployed as a state asset only by a directive from the administrator or pursuant to a governor’s disaster proclamation, unless the sponsoring agency’s response team is needed to perform emergency services within its own jurisdiction.

**12.4(2)** A designated team may be deployed as a state asset to supplement and enhance disrupted or overburdened local emergency and disaster operations. A team may also be deployed as a state asset to other states pursuant to the interstate emergency management assistance compact as described in Iowa Code section 29C.21 with the concurrence of the sponsoring agency.

**605—12.5(29C) Homeland security and emergency response team compensation.**

**12.5(1)** A homeland security and emergency response team may be compensated for its expenses while it is deployed as a state asset in accordance with rule 12.4(29C). The application for compensation shall be in a manner as specified by the administrator. Compensation shall be made to the team or the team’s governing jurisdiction.

**12.5(2)** A member of a homeland security and emergency response team listed on the team roster filed pursuant to subrule 12.3(5), while acting under the directive of the administrator or pursuant to a governor’s disaster proclamation, shall be considered an employee of the state under Iowa Code section 669.21. Disability, workers’ compensation, and death benefits for designated team members participating in a response or recovery operation initiated by the administrator or governor pursuant to rule 12.4(29C) or participating in a training or exercise activity approved by the administrator shall be paid by the state in a manner consistent with the provisions of Iowa Code chapter 85, 410, or 411 as appropriate. The department of administrative services shall process claims for compensable losses of deployed team members.

**12.5(3)** The homeland security and emergency response team’s materials, equipment and supplies consumed or damaged while the team is deployed in accordance with rule 12.4(29C) shall be reimbursed on a replacement cost basis, subject to the availability of funds.

**12.5(4)** The administrator shall request funds from the executive council to address any obligations under rule 12.5(29C).

**605—12.6(29C) Alternate deployment of homeland security and emergency response teams.**

**12.6(1)** At its discretion, a homeland security and emergency response team may deploy at the direct request of a political subdivision of the state without a directive from the administrator or without a governor’s disaster proclamation.

**12.6(2)** The provisions of rule 12.5(29C) do not apply to a team deployed under 12.6(29C). A team deployed upon local request may seek compensation from the political subdivision making the request and in accordance with any existing mutual aid agreements that may exist at the time of deployment.

## HOMELAND SECURITY AND EMERGENCY MANAGEMENT DIVISION[605](cont'd)

**12.6(3)** If, during a team deployment, a governor's disaster proclamation is issued, the administrator shall specify the date and time when the team may be deployed under rules 12.4(29C) and 12.5(29C).

These rules are intended to implement Iowa Code chapter 29C as amended by 2006 Iowa Acts, chapter 1185, sections 62, 63, and 64.

**ARC 5626B****HUMAN SERVICES  
DEPARTMENT[441]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services proposes to amend Chapter 79, "Other Policies Relating to Providers of Medical and Remedial Care," Chapter 81, "Nursing Facilities," Chapter 82, "Intermediate Care Facilities for the Mentally Retarded," and Chapter 88, "Managed Health Care Providers," Iowa Administrative Code.

These amendments streamline provider enrollment policies by combining nine Medicaid provider enrollment forms into a single application form. Revised Form 470-0254, Iowa Medicaid Provider Enrollment Application, will eliminate the use of the following forms:

- Form 470-2966, Noninstitutional Medicaid Provider Application;
- Form 470-2967, Institutional Medicaid Provider Enrollment;
- Form 470-2968, Equivalency Form;
- Form 470-2969, Federally Qualified Health Professionals Listing;
- Form 470-2970, Group Practice Information;
- Form 470-2971, Rehabilitation Agency Information Sheet;
- Form 470-2976, Medicaid Provider Application for Hospices, HMOs, and Enhanced Service Providers; and
- Form 470-3819, Rehabilitation Services for Adults with Chronic Mental Illness Provider Application.

Combining enrollment forms is expected to streamline enrollment procedures, apply policy more consistently, and eliminate confusion. Drafts of the revised application form and a revised Iowa Medicaid provider agreement are posted for comment on the Iowa Medicaid Enterprise Web site (<http://www.ime.state.ia.us/providers>).

These amendments also require Medicaid providers to use their national provider identifier number, in compliance with federal regulations. Use of the national identifier number will allow for consistency across states in the identification of providers that give services to patients. Certain "atypical" providers will not be issued a national provider identifier number and will continue to use an Iowa-specific provider identifier number.

Any interested person may make written comments on the proposed amendments on or before January 10, 2007. Comments should be directed to Mary Ellen Imlau, Office of Policy Analysis, Department of Human Services, Hoover

State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515) 281-4980 or by E-mail to [policyanalysis@dhs.state.ia.us](mailto:policyanalysis@dhs.state.ia.us).

These amendments are intended to implement Iowa Code chapter 249A.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Amend rule 441—79.14(249A) as follows:

Rescind subrule 79.14(1) and adopt the following **new** subrule in lieu thereof:

**79.14(1)** Application request. A provider of medical or remedial services that wishes to enroll as an Iowa Medicaid provider shall begin the enrollment process by contacting the provider services unit at the Iowa Medicaid enterprise to request an application form.

a. A nursing facility shall also complete the process set forth in 441—subrule 81.13(1).

b. An intermediate care facility for persons with mental retardation shall also complete the process set forth in 441—subrule 82.3(1).

Amend subrules 79.14(2) and 79.14(6) as follows:

**79.14(2)** Submittal of application. The provider shall submit the appropriate application forms to the Iowa Medicaid enterprise provider services unit at P.O. Box 36450, Des Moines, Iowa 50315.

a. Providers of home- and community-based waiver services shall submit Form 470-2917, Medicaid HCBS Provider Application, at least 90 days before the planned service implementation date.

b. All other providers shall submit Form 470-0254, Iowa Medicaid Provider Enrollment Application.

c. The application shall include the provider's national provider identifier number or shall indicate that the provider is an atypical provider that is not issued a national provider identifier number.

**79.14(6)** Providers approved for certification as a Medicaid provider shall complete Form 470-2965, ~~Agreement Between Provider of Medical and Health Services and Iowa Department of Human Services Regarding Participation in Medical Assistance Program~~ a provider participation agreement as required by rule 441—79.6(249A).

ITEM 2. Amend paragraph **81.13(1)"b"** as follows:

b. The facility shall request an application, Form ~~470-2967~~ 470-0254, ~~Institutional Iowa Medicaid Provider Enrollment Application~~, from the Iowa Medicaid enterprise provider services unit.

ITEM 3. Amend paragraph **82.3(1)"b"** as follows:

b. The facility shall request an application, Form 470-0254, ~~Institutional Iowa Medicaid Provider Enrollment Application~~, from the ~~department~~ Iowa Medicaid enterprise provider services unit.

ITEM 4. Amend subparagraph **88.44(3)"a"(1)** as follows:

(1) The request shall identify the provider by name, address, telephone number, specialty, and Medicaid provider number, *indicating the practice location*, or date of application to be a Medicaid provider. The request shall specify the recipients members in question and state agreement to provide primary care and patient management as specified in

HUMAN SERVICES DEPARTMENT[441](cont'd)

subrule 88.45(2) to the specific recipients in question *those members*.

ITEM 5. Amend subrule 88.48(3) as follows:

**88.48(3)** Authorizing managed services. Referrals may be made by the patient manager *may make referrals* to another provider for specialty care or for primary care during the patient manager's absence or nonavailability.

a. No special authorization or referral form is required, and referrals should occur in accordance with accepted practice in the medical community. To ensure that payment is made for properly authorized services, the patient manager shall provide the specialist or other provider with the patient manager's Medicaid provider number (*the national provider identifier number or Iowa-specific provider identifier number*), which must be entered on the billing form to signify that the service has been authorized.

b. After the patient manager's initial referral of a patient to a specialist for ongoing treatment, the specialist shall not be required to receive further specific authorizations for the duration of the illness, or at the discretion of the patient manager, for a period of time specified by the patient manager.

c. The referral shall include necessary services rendered by the specialist and referrals for related services made by the specialist. With the patient manager's approval, the patient manager's number may be relayed by the referred specialist to other providers considered necessary for proper treatment of the patient. All authorizations and referrals shall be documented by both the patient manager and the referred-to provider in the patient's medical record.

d. Emergency services are excluded from the authorization requirement, even though these services may be ones customarily requiring authorization under patient management. Urgent care requires authorization in order for Medicaid services to be paid. The unauthorized use of a patient manager's authorization number shall be considered to be a false or fraudulent claim submission and may subject the provider to recoupment or to sanctions described at 441—subrule 79.2(3).

ITEM 6. Amend subrule 88.49(1) as follows:

**88.49(1)** Written record. The department or its designee shall maintain a written record of all grievances. A log shall be maintained that includes the date of the grievance, recipient ~~member~~ name and state identification number, provider name and *national provider identifier number or Iowa-specific provider identifier number*, nature of complaint, resolution and date of resolution.

## ARC 5620B

### INSURANCE DIVISION[191]

#### Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 505.8 and 507B.12, the Insurance Division hereby gives Notice of Intended Action to amend Chapter 15, “Unfair Trade Practices,” Iowa Administrative Code.

The rules in Chapter 15 establish certain minimum standards and guidelines of conduct by identifying unfair methods of competition and unfair or deceptive acts or practices in the business of insurance.

This proposed amendment requires certain specific training for insurance producers who wish to sell indexed annuities or indexed life insurance in Iowa. This additional training is necessary due to the complex nature of these indexed products and to ensure that an insurance producer is able to determine whether an indexed product is suitable for a consumer and is able to adequately explain to a consumer how the indexed product works. The Division intends that this amendment will be effective March 21, 2007, and that insurance producers and companies shall be able to demonstrate compliance by July 1, 2007.

Any interested person may make written suggestions or comments on this proposed amendment on or before January 9, 2007. Such written materials should be directed to Rosanne Mead, Assistant Insurance Commissioner, Iowa Insurance Division, 330 Maple St., Des Moines, Iowa 50319; fax (515)281-3059.

Also, there will be a public hearing on January 9, 2007, at 1 p.m. at the offices of the Iowa Insurance Division, 330 Maple St., Des Moines, Iowa 50319, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendment.

Any persons who intend to attend the public hearing and have special requirements, such as those relating to hearing or mobility impairments, should contact the Division and advise of specific needs.

This amendment is intended to implement Iowa Code sections 505.8 and 507B.12.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendment is proposed.

Amend 191—Chapter 15 by adopting the following **new** division:

#### DIVISION VI

#### INDEXED PRODUCTS TRAINING REQUIREMENT

**191—15.80(507B,522B) Purpose.** The purpose of the rules in this division is to require certain specific minimum training for insurance producers who wish to sell indexed annuities or indexed life insurance in Iowa. This additional training is necessary due to the complex nature of these indexed products and to ensure that insurance producers are able to determine whether an indexed product is suitable for a consumer and are able to adequately explain to a consumer how the indexed product works. The ultimate goal of these rules is to ensure that purchasers of indexed products understand basic features of the indexed products. The rules in this division apply to all indexed products sold on or after July 1, 2007.

**191—15.81(507B,522B) Definitions.** For the purpose of this division:

“CE credit” means one continuing education “credit” as defined in 191—Chapter 11.

“CE provider” means any individual or entity that is approved to offer continuing education courses in Iowa pursuant to 191—Chapter 11.

## INSURANCE DIVISION[191](cont'd)

“Indexed products” means all fixed indexed life insurance and fixed indexed annuity products.

“Insurer” means an insurance company admitted to do business in Iowa which sells indexed products in Iowa.

“Producer” means a person required to obtain an insurance license under Iowa Code chapter 522B.

**191—15.82(507B,522B) Special training required.** A producer who wishes to sell indexed products in Iowa shall complete at least one four-credit indexed products training course, as described in this division, prior to providing any advice or making any sales presentation concerning an indexed product.

**191—15.83(507B,522B) Conduct of training course.**

**15.83(1)** The indexed products training shall include information on all topics listed in the most recent version of the indexed products training outline available at the division's Web site, [www.iid.state.ia.us](http://www.iid.state.ia.us).

**15.83(2)** CE providers of indexed products training shall cover all topics listed in the indexed products training outline and, within the time allotted for the required topics, shall not present any marketing information or provide training on sales techniques or provide specific information about a particular insurer's products. Additional topics may be offered in conjunction with and in addition to the required outline.

**15.83(3)** The minimum length of the indexed products training must be sufficient to qualify for at least four CE credits, but may be longer.

**15.83(4)** To satisfy the requirements of subrules 15.83(1), 15.83(2) and 15.83(3), an indexed products training course shall be filed, approved and conducted according to the rules and guidelines applicable to insurance producer continuing education courses as set forth in 191—Chapter 11.

**15.83(5)** Indexed products training courses may be conducted and completed by classroom or self-study methods according to the rules in 191—Chapter 11.

**15.83(6)** CE providers of indexed products training shall comply with the reporting requirements as set forth in 191—Chapter 11.

**15.83(7)** CE providers of indexed products training shall issue certificates of completion according to the rules in 191—Chapter 11.

**15.83(8)** A producer may use the CE credits completed under the indexed products training requirement to meet the producer's continuing education requirement under 191—Chapter 11.

**191—15.84(507B,522B) Insurer duties.**

**15.84(1)** Each insurer shall establish a system to verify which of its appointed insurance producers have completed one training course on indexed products as required in this division.

**15.84(2)** An insurer shall verify that a producer has completed the required indexed products training before allowing the producer to sell an indexed product for that insurer.

**15.84(3)** For insurance producers under contract with or employed by a broker-dealer, general agent or independent agency, an insurer may enter into a contract with the broker-dealer, general agent or independent agency to establish and maintain a system of verification as required by subrule 15.84(1) with respect to those insurance producers. In such circumstances, the insurer shall make reasonable inquiry to ensure that the broker-dealer, general agent or independent agency is performing the functions required under subrules 15.84(1) and 15.84(2).

**191—15.85(507B,522B) Verification of training.** Insurers, producers and third-party contractors may verify a producer's completion of the indexed products training by accessing the division's Web site at: [www.iid.state.ia.us](http://www.iid.state.ia.us).

**191—15.86(507B,522B) Penalties.**

**15.86(1)** Insurers and third-party contractors that violate the rules of this division are subject to penalty under Iowa Code chapter 507B.

**15.86(2)** Producers who violate the rules of this division are subject to penalty under Iowa Code chapters 507B and 522B.

**15.86(3)** Continuing education providers that fail to follow the requirements of the rules of this division and the conduct requirements of 191—Chapter 11 are subject to penalty under 191—Chapter 11 and Iowa Code chapters 507B and 522B.

**191—15.87(507B,522B) Compliance date.**

**15.87(1)** A producer who provides advice or makes a sales presentation regarding an indexed product on or after July 1, 2007, shall have completed the indexed products training required by this division.

**15.87(2)** An Iowa-licensed insurer shall verify that, prior to the sale of any indexed products on or after July 1, 2007, any producer appointed by the insurer has completed the indexed products training required by this division.

## ARC 5619B

### LABOR SERVICES DIVISION[875]

#### Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 89.14, the Boiler and Pressure Vessel Board hereby gives Notice of Intended Action to amend Chapter 90, “Administration of the Boiler and Pressure Vessel Program,” and Chapter 91, “General Requirements for All Objects,” and to rescind Chapter 95, “Water Heater Supply Boilers,” and adopt new Chapter 95, “Water Heaters,” Iowa Administrative Code.

The proposed amendments begin the process of extending safety and health regulations and inspections to certain water heaters that fall within the scope of Iowa Code chapter 89 but previously have not been inspected and regulated. The proposed amendments require that all water heaters in places of public assembly not currently registered shall be registered with the Division of Labor Services by January 1, 2009, and require that water heaters not currently being inspected and regulated by the Division of Labor Services shall be inspected and regulated beginning January 1, 2009. Over the course of the next two years, the Division of Labor Services will conduct a public outreach campaign to notify owners of these new requirements.

The proposed amendments ease restrictions on the use of galvanized pipes, valves, and fittings for all boilers and pressure vessels.

The proposed amendments also rewrite the safety and health regulations applicable to water heaters by removing unnecessary restrictions; adopting a regulation that all water

## LABOR SERVICES DIVISION[875](cont'd)

heaters shall be in accordance with a recognized standard; rewriting the rules to make them easier to read; requiring installation in accordance with the manufacturer's recommendations; exempting electric, point-of-use water heaters from the requirements for temperature and pressure valves and thermal expansion tanks; and adopting new rules for bulging or leaking tanks, exhaust flues, leaks from pipes, valves, and fittings, and carbonization. The proposed amendments eliminate the requirement that water heaters be provided expansion tanks built in accordance with the American Society of Mechanical Engineers' Code in certain cases.

The purposes of these amendments are to make the rules more current, make changes identified as necessary during the rules review required by Iowa Code subsection 89.14(7), protect the safety of the public, and implement legislative intent.

If a request for an oral presentation is received by the close of business on January 9, 2007, from 25 interested persons, a governmental subdivision, or an agency or association of 25 or more persons, a public hearing will be held on January 10, 2007, at 10 a.m. in the Capitol View Room at 1000 East Grand Avenue, Des Moines, Iowa. Interested persons will be given the opportunity to make oral statements and file documents concerning the proposed amendments. The facility for the oral presentations is accessible to and functional for persons with physical disabilities. Persons who have special requirements should call (515)242-5869 in advance to arrange access or other needed services.

Written data, views, or arguments to be considered in adoption shall be submitted by interested persons no later than January 10, 2007, to the Division of Labor Services, 1000 East Grand Avenue, Des Moines, Iowa 50319-0209. Comments may be sent electronically to [kathleen.uehling@iwd.state.ia.us](mailto:kathleen.uehling@iwd.state.ia.us).

These amendments are intended to implement Iowa Code chapter 89.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Amend rule **875—90.2(89,216,252J)** by adding the following **new** definition in alphabetical order:

"Point-of-use, electric water heater" means an electric, instantaneous water heating device with no storage capacity.

ITEM 2. Amend rule 875—90.4(89) as follows:

**875—90.4(89) National Board registration Registration.**

**90.4(1)** Owners or operators of water heaters with a water containing capacity equal to or less than 50 gallons or with a heat input of less than or equal to 50,000 Btu's per hour shall register their water heaters with the division of labor services on forms provided by the division of labor services no later than January 1, 2009.

**90.4(2)** Except for objects governed by 875—Chapter 95, all objects must be registered with the National Board.

ITEM 3. Amend rule 875—91.6(89) as follows:

**875—91.6(89) Piping, valves, and fitting requirements.** Pipes, valves, and fittings subject to the effects of galvanic action shall not be used on objects covered by these rules except where permitted in 875—Chapter 95. The minimum piping, valve, and fitting supplied on any object shall be Schedule 40. The piping design must take into account the removal of ma-

terial for mechanical joints such as threading or bolting, corrosion and erosion requirements, and the effects of hydrostatic head pressure. ~~Dielectric~~ *Dielectric* fittings shall be used where dissimilar metals are joined.

ITEM 4. Rescind 875—Chapter 95 and adopt the following **new** chapter in lieu thereof:

CHAPTER 95  
WATER HEATERS

**875—95.1(89) Scope.** This chapter applies to water heaters supplying potable hot water when the heat input is less than or equal to 200,000 Btu's and the water containing capacity is less than or equal to 120 gallons. If the heat input is greater than 200,000 Btu's per hour or the water containing capacity is greater than 120 gallons, 875—Chapter 94 shall apply instead of this chapter. The requirements of this chapter shall not be enforced for water heaters with heat input of less than or equal to 50,000 Btu's and a water containing capacity of less than or equal to 120 gallons until January 1, 2009.

**875—95.2(89) Recognized standard.** All water heaters shall be in accordance with a recognized standard such as those promulgated by the Canadian Standards Association, American National Standards Institute 21.10.13, Underwriters Laboratories, American Gas Association, Gas Appliance Manufacturers Association, or the applicable ASME Code adopted by reference at rule 875—94.2(89).

**875—95.3(89) Installation.** Water heaters shall be installed in accordance with the manufacturer's recommendations. Water heaters designed solely for heating potable water shall not be used for space heating. Water heaters designed for both space heating and potable water must comply with 875—Chapter 94. Water heaters shall not be installed for use at temperatures exceeding 210 degrees Fahrenheit or for pressures exceeding 160 psig. When water supply to water heaters exceeds 75 percent of the design pressure of the water heater, a pressure-reducing valve is required.

**875—95.4(89) Temperature and pressure relief valves.** This rule does not apply to point-of-use, electric water heaters. Each water heater shall have at least one automatically resetting temperature and pressure relief valve bearing the ASME Code symbol "HV."

**95.4(1) Materials.** All materials used in temperature and pressure relief valves shall be rated for temperatures and pressures at or greater than the maximum allowable working pressure of the water heater.

**95.4(2) Size.** Temperature and pressure relief valves shall not be smaller than 3/4 inch. The inlet opening shall have an inside diameter approximately equal to, or greater than, the seat diameter. The minimum opening through any part of the valve shall not be less than 1/2-inch diameter.

**95.4(3) Capacity.** The Btu-relieving capacity of the pressure-relieving device or devices on a water heater shall be equal to or greater than the maximum Btu input rate. The relieving capacity for electric water heaters shall be at least 3,500 Btu's per hour per kilowatt input. Temperature and pressure relief valve capacity shall relieve at or below the maximum allowable working pressure of the water heater.

**95.4(4) Mounting.** Temperature and pressure relief valves shall be connected to the top of water heaters or directly to a tapped or flanged opening in the water heater. Temperature and pressure relief valves shall be installed with their spindles vertical or horizontal.

LABOR SERVICES DIVISION[875](cont'd)

**875—95.5(89) Shutoff valves prohibited.** Shutoff valves shall not be placed between the temperature and pressure relief valve and the water heater or on discharge pipes between such valves and the atmosphere.

**875—95.6(89) Thermal expansion.** This rule does not apply to point-of-use, electric water heaters. If a system is equipped with a check valve or pressure-reducing valve in the cold-water inlet line, consideration should be given to installation of an airtight expansion tank or other suitable air cushion. If an expansion tank is provided, it shall be in accordance with a nationally recognized standard and rated for a maximum allowable working pressure equal to or greater than that of the temperature and pressure relief valve. Except for pre-pressurized tanks, provisions shall be made for draining the tank without emptying the system.

**875—95.7(89) Stop valves.** Stop valves shall be used in each supply and return pipe connection of multiple water heater installations to permit draining the heater without emptying the system.

**875—95.8(89) Carbonization.** Carbonization and other indications of improper flame shall be corrected through adjusting and cleaning the burners in accordance with the manufacturer's recommendations.

**875—95.9(89) Leaks.** Water or fuel leaks from pipes, valves, and fittings are prohibited.

**875—95.10(89) Flues.** Exhaust flues that effectively release exhaust to the outside shall be installed. Gaps, holes and deterioration in flues are prohibited.

**875—95.11(89) Tanks.** Tanks that do not bear an ASME stamp and that have bulges or leaks shall be removed. Tanks bearing an ASME stamp and that have bulges or leaks shall be removed or repaired pursuant to rule 875—91.8(89).

**875—95.12(89) Galvanized pipes, valves, and fittings.** On water heaters without an ASME stamp, galvanized pipes, valves, and fittings may be used on water applications, provided a dielectric union is also installed in direct contact with dissimilar metals.

These rules are intended to implement Iowa Code chapter 89.

## ARC 5615B

### PROFESSIONAL LICENSURE DIVISION[645]

#### Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 147.76, the Board of Interpreter for the Hearing Impaired Examiners hereby gives Notice of Intended Action to amend Chapter 361, “Licensure of Interpreter for the Hearing Impaired Practitioners,” Chapter 362, “Continuing Education for Interpreter for the Hearing Impaired Practitioners,” Chapter 363, “Discipline for Interpreter for the Hearing Impaired Practitioners,” Iowa Administrative Code.

The proposed amendments define supervisory requirements for temporary license holders beginning July 1, 2007. These amendments make licensure requirements consistent with recent statutory changes.

Any interested person may make written comments on the proposed amendments no later than January 9, 2007, addressed to Pierce Wilson, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075; E-mail [pwilson@idph.state.ia.us](mailto:pwilson@idph.state.ia.us).

A public hearing will be held on January 9, 2007, from 9:30 to 10 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments.

These amendments are intended to implement Iowa Code chapters 21, 147, 154E and 272C.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Amend rule **645—361.1(80GA, ch1175)** by adding the following **new** definitions in alphabetical order:

“Active interpreter or transliterator services” means the actual time spent personally providing interpreting or transliterating services. When in a team interpreting situation, the time spent monitoring while the team interpreter is actively interpreting shall not be included in the time spent personally providing interpreting or transliterating services.

“Direct supervision of a temporary license holder” means board review of a temporary license holder's evidence of professional development and continuing educational training or in-person monitoring of interpreting or transliterating services in the same room as the temporary license holder providing those services, as outlined in subrule 361.2(6).

“Direct supervision of students” means in-person monitoring of interpreting or transliterating services by a sign language interpreter or transliterator licensed pursuant to Iowa Code Supplement section 154E.3 and subrule 361.2(1) while in the same room as the student who is providing interpreting services as a part of the student's current course of study while enrolled in a school of interpreting.

“Supervisor” means a sign language interpreter or transliterator licensed pursuant to Iowa Code Supplement section 154E.3 and subrule 361.2(1) who provides on-site evaluations and advisory sessions with a temporary license holder for the purpose of the professional development of that temporary license holder.

ITEM 2. Amend subrule 361.2(4) as follows:

**361.2(4)** An applicant for licensure who has not successfully completed the board-approved examination set forth in paragraph 361.2(1)“d” by July 1, 2005, but has complied with all other requirements in paragraphs 361.2(1)“a” through “c” shall be issued a temporary license to practice interpreting for a period not to extend beyond July 1, 2007 through the end of the then-current biennial license period. A temporary license holder may renew a temporary license once, for the immediately following biennial license period.

ITEM 3. Rescind subrule **361.2(5)** and amend and renumber subrule 361.2(6) as follows:

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

**361.2(65)** An applicant who is issued a temporary license is subject to the same criteria as a licensed interpreter as defined in ~~2004 Iowa Acts, chapter 1175, Iowa Code Supplement chapter 154E and chapter 147 and 645—Chapters 360 and through 364.~~

ITEM 4. Adopt **new** subrules 361.2(6), 361.2(7) and 361.2(8) as follows:

**361.2(6)** Beginning July 1, 2007, a temporary license holder shall be required to:

a. Provide to the board, by June 30 of each year in which the temporary license is held, demographic, educational and professional study information on a form prescribed by the board; and

b. Meet the requirements of either (1) or (2) for the biennial license period:

(1) Provide services under the direct supervision of a sign language interpreter or transliterator licensed pursuant to Iowa Code Supplement section 154E.3. Providing such services under this subparagraph requires the temporary license holder during each year of the biennial license period to:

1. Have a supervisor observe the temporary license holder in active practice for no fewer than six consecutive, bi-monthly (a total of six per year) on-site observation sessions at events lasting at least 30 minutes, if the temporary license holder is working alone in providing active interpreter or transliterator services, or at least 60 minutes, if the temporary license holder is working in a team interpreting situation.

2. Attend at least six consecutive bimonthly (a total of six per year) advisory sessions with the supervisor for the purpose of discussing the supervisor's suggestions for professional skill development based on the on-site observation sessions. An advisory session may occur immediately following an on-site observation session if the setting is appropriate. The advisory session shall involve only the temporary license holder and supervisor.

3. Enter into a written agreement with the supervisor in which the temporary license holder and the supervisor agree to the minimum requirements provided in numbered paragraphs 361.2(6)“b”(1)“1” and “2.” The agreement shall be signed and dated by the temporary license holder and the supervisor; shall include the temporary license holder's and supervisor's names, addresses and contact information; and shall be provided to the board upon request.

4. Maintain an event log documenting the date, time, length of observation and setting of each on-site observation session and advisory session. The temporary license holder shall ensure that the supervisor places initials beside each event entry to verify the occurrence of the event and advisory session. This event log shall be provided to the board upon request.

5. Ensure that the supervisor attends both the on-site observation sessions and advisory sessions or reschedules the sessions as necessary to ensure compliance.

6. Comply with the required on-site observation and advisory session obligations. If there is a need to change supervisors for any reason, the temporary license holder shall be responsible for developing a new written agreement with the new supervisor. Changes in supervisors shall not excuse noncompliance with on-site observation and advisory session obligations.

7. Obtain permission from clients as necessary to allow the supervisor to be in attendance during the observation sessions.

(2) Complete during each year of the biennial license period a minimum of 30 hours (3.0 CEUs) of continuing education in areas of professional studies that conform to

the requirements of 645—subparagraph 362.3(2)“a”(2). The temporary license holder shall submit to the board certificates of completion issued to the temporary license holder evidencing successful completion of continuing education courses meeting the requirements of 645—subparagraph 362.3(2)“a”(2). Submittal of the certificates of completion does not relieve the licensee of the requirement of providing additional information regarding this continuing education as required in 645—subrule 362.4(2) if the licensee is audited.

**361.2(7)** As an Iowa-licensed practitioner in accordance with this chapter, a supervisor providing direct supervision of a temporary license holder as provided in subparagraph 361.2(6)“b”(1) is obligated to report to the board interpreters or transliterators who are not practicing in compliance with Iowa law and rules including, but not limited to, Iowa Code Supplement chapter 154E and 645—Chapters 360 through 364.

**361.2(8)** Students enrolled in an interpreter training program (ITP) or an interpreter preparation program (IPP) shall provide active interpreter or transliteration services only under the direct supervision of the student's supervisor as defined in 645—361.1(80GA, ch1175). The supervisor must be in the same room at all times as the student who is providing interpreting or transliterating services as a part of the student's course of study. This restriction also applies to a student fulfilling practicum or internship requirements as a part of the student's course of study while enrolled in a school of interpreting.

ITEM 5. Amend subrule **361.5(3)**, paragraph “a,” as follows:

a. Meet the continuing education requirements *as provided in 645—subrules 362.2(1) and 362.2(2) or, in lieu of meeting such requirements, provide proof of a current national interpreter certification issued by an organization recognized by the board (e.g., Registry of Interpreters for the Deaf (RID); National Association of the Deaf (NAD); NAD-RID National Interpreter Certification (NIC)) as evidence of meeting continuing education requirements.* A licensee whose license was reactivated during the current biennial license period may use continuing education credit earned during the compliance period for the first renewal following reactivation; and

ITEM 6. Rescind subrule 362.2(2) and adopt the following **new** subrule in lieu thereof:

**362.2(2)** Requirements for new licensees. A person licensed for the first time shall not be required to complete continuing education as a prerequisite for the first renewal of the license unless the licensee holds a temporary license and has chosen to meet the requirements for temporary licensure specified in 645—subparagraph 361.2(6)“b”(2). The new licensee will be required to complete a minimum of 40 hours of continuing education during each year of the biennial license period for each subsequent license renewal and may use continuing education hours acquired anytime from the initial licensing until the second license renewal to meet the requirements for the second license renewal period. A licensee who provides proof of a current national interpreter certification issued by an organization recognized by the board (e.g., Registry of Interpreters for the Deaf (RID); National Association of the Deaf (NAD); NAD-RID National Interpreter Certification (NIC)) meets continuing education requirements.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

ITEM 7. Adopt **new** subrule 363.2(31) as follows:  
**363.2(31)** Failure by a temporary license holder to comply with the requirements of 645—subrule 361.2(6).

**ARC 5616B**

**PUBLIC SAFETY  
DEPARTMENT[661]**

**Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of 2006 Iowa Acts, chapter 1090, section 6, the Building Code Commissioner hereby gives Notice of Intended Action to amend Chapter 372, “Manufactured or Mobile Home Retailers, Manufacturers, and Distributors,” Iowa Administrative Code.

2006 Iowa Acts, chapter 1090, transfers responsibility for licensing of manufactured or mobile home retailers, manufacturers, and distributors from the Department of Transportation to the Department of Public Safety, effective January 1, 2007. A rule-making process was recently completed to adopt Chapter 372, which will take effect on January 1, 2007. Several essential items were omitted from that rule making and are adopted herein, including provisions for licensee discipline related to delinquent child support, which Iowa Code chapter 252J requires of all licensure programs operated by state agencies; provisions for appeals of disciplinary action against licensees; and provisions for applying for waivers of the rules contained in Chapter 372.

A public hearing on these proposed amendments will be held on January 19, 2007, at 9:30 a.m. in the Fire Marshal Division Conference Room, 401 S.W. 7th Street, Suite N, Des Moines, Iowa 50309. Persons may present their views concerning these amendments at the public hearing orally or in writing. Persons who wish to make oral presentations at the hearing are requested to contact the Agency Rules Administrator, Iowa Department of Public Safety, 502 East 9th Street, Des Moines, Iowa 50319; or by telephone at (515)281-5524 at least one day prior to the hearing, although any person who appears at the hearing will be afforded an opportunity to speak.

Any interested persons may make oral or written comments concerning these proposed amendments to the Agency Rules Administrator by mail, telephone, or in person at the above address by 4:30 p.m. on January 19, 2007. Comments may also be submitted by electronic mail to [admrule@dps.state.ia.us](mailto:admrule@dps.state.ia.us) by 4:30 p.m. on January 19, 2007.

In order that the provisions contained herein be effective when the licensing program’s administration by the Department of Public Safety commences on January 1, 2007, these amendments are also Adopted and Filed Emergency and are published herein as **ARC 5617B**. The content of that submission is incorporated by reference.

These amendments are intended to implement 2006 Iowa Acts, chapter 1090.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee’s review of this rule making.

**NOTICE—PUBLIC FUNDS  
INTEREST RATES**

In compliance with Iowa Code chapter 74A and section 12C.6, the committee composed of Treasurer of State Michael L. Fitzgerald, Superintendent of Credit Unions James E. Forney, Superintendent of Banking Thomas B. Gronstal, and Auditor of State David A. Vaudt have established today the following rates of interest for public obligations and special assessments. The usury rate for December is 6.75%.

**INTEREST RATES FOR PUBLIC  
OBLIGATIONS AND ASSESSMENTS**

- 74A.2 Unpaid Warrants . . . . . Maximum 6.0%
- 74A.4 Special Assessments . . . . . Maximum 9.0%

**RECOMMENDED** Rates for Public Obligations (74A.3) and School District Warrants (74A.7). A rate equal to 75% of the Federal Reserve monthly published indices for U.S. Government securities of comparable maturities. All Iowa Banks and Iowa Savings Associations as defined by Iowa Code section 12C.1 are eligible for public fund deposits as defined by Iowa Code section 12C.6A.

The rate of interest has been determined by a committee of the state of Iowa to be the minimum interest rate that shall be paid on public funds deposited in approved financial institutions. To be eligible to accept deposits of public funds of the state of Iowa, a financial institution shall demonstrate a commitment to serve the needs of the local community in which it is chartered to do business. These needs include credit services as well as deposit services. All such financial institutions are required to provide the committee with a written description of their commitment to provide credit services in the community. This statement is available for examination by citizens.

New official state interest rates, effective December 12, 2006, setting the minimums that may be paid by Iowa depositories on public funds are listed below.

**TIME DEPOSITS**

- 7-31 days . . . . . Minimum 1.85%
- 32-89 days . . . . . Minimum 2.85%
- 90-179 days . . . . . Minimum 3.25%
- 180-364 days . . . . . Minimum 3.60%
- One year to 397 days . . . . . Minimum 3.80%
- More than 397 days . . . . . Minimum 4.55%

These are minimum rates only. The one year and less are four-tenths of a percent below average rates. Public body treasurers and their depositories may negotiate a higher rate according to money market rates and conditions.

Inquiries may be sent to Michael L. Fitzgerald, Treasurer of State, State Capitol, Des Moines, Iowa 50319.

## ARC 5612B

### UTILITIES DIVISION[199]

#### Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 17A.4, 476.2, 476.32, and 478.13, the Utilities Board (Board) gives notice that on November 28, 2006, the Board issued an order in Docket No. RMU-06-10, In re: Filing of Line and Pole Replacement Data [199 IAC 20.18(7) and 25.3(3)], "Order Commencing Rule Making," that proposes to amend 199 IAC 20.18(7) to require rate-regulated electric utilities with more than 50,000 Iowa retail customers to include information about the replacement of lines and poles in their annual reliability reports and to amend subrule 25.3(3) to require all electric utilities to include a schedule for pole inspection in their inspection plans required in 199 IAC 25.3(476,478).

In Docket No. NOI-02-2, In re: Aging Transmission and Distribution Infrastructure, the Board investigated whether rate-regulated electric utilities had plans for the replacement of aging infrastructure and determined that age was not the determinative factor for deciding which poles to replace. However, the Board found that the reliability reports required in 199 IAC 20.18(7) did not contain specific data on replacement of aging electric lines and poles, and the Board determined that this information should be compiled and filed with the Board. The Board also determined that each utility should be required to have a specific pole inspection schedule that included more than just visual inspection to ensure the safety and reliability of each electric system. The order containing the background and support for this rule making can be found on the Board's Web site, [www.state.ia.us/iub](http://www.state.ia.us/iub).

Pursuant to Iowa Code section 17A.4(1)"a" and "b," any interested person may file a written statement of position pertaining to the proposed amendments. The statement must be filed on or before January 9, 2007, by filing an original and ten copies in a form substantially complying with 199 IAC 2.2(2). All written statements should clearly state the author's name and address and should make specific reference to this docket. All communications should be directed to the Executive Secretary, Iowa Utilities Board, 350 Maple Street, Des Moines, Iowa 50319-0069.

An oral presentation to receive oral comments on the proposed amendments will be held at 10 a.m. on February 7, 2007, in the Board's hearing room at the address listed above. Persons with disabilities who require assistive services or devices to observe or participate should contact the Utilities Board at (515)281-5256 in advance of the scheduled date to request that appropriate arrangements be made.

These amendments are intended to implement Iowa Code sections 17A.4, 476.2, 476.32, and 478.13.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Adopt **new** paragraph **20.18(7)"i"** as follows:

i. The annual reliability report shall include:

- (1) The number of miles of lines replaced by location, by voltage, and classified as overhead or underground; and
- (2) The number of poles inspected, the number rejected, and the number replaced.

ITEM 2. Amend subrule 25.3(1) as follows:

**25.3(1)** Filing of plan. Each electric utility shall adopt and file with the board a written ~~program~~ *plan* for inspecting and maintaining its electric supply lines and substations (excluding generating stations) in order to determine the necessity for replacement, maintenance, and repair, and for tree trimming or other vegetation management. If the plan is amended or altered, revised copies of the appropriate plan pages shall be filed.

ITEM 3. Amend the catchwords of paragraph **25.3(3)"b"** as follows:

b. Inspection of lines, ~~poles~~, and substations.

ITEM 4. Adopt **new** paragraph **25.3(3)"d"** as follows:

d. Pole inspections.

(1) Scope of inspection. Pole inspections shall include an examination of the poles that includes tests in addition to visual inspection in appropriate circumstances. These additional tests may include sounding, boring, groundline exposure, and, if applicable, pole treatment.

(2) Pole inspection schedule. As part of the inspection plan required by this subrule, the utility shall include a schedule for periodic inspection of wooden poles. The period between inspections shall be based upon established good practice in the industry and may vary with soil conditions and type of wood, among other factors.

(3) Procedures. The inspection plans required by this subrule shall include written procedures for the inspection of poles and for determining the need for pole treatment, repair, or replacement.

ITEM 5. Amend subrule 25.3(4) as follows:

**25.3(4)** Records. Each utility shall keep sufficient records to demonstrate compliance with its inspection and vegetation management ~~programs~~ *plans*. For each inspection unit, the records of line, ~~pole~~, and substation inspections *and pole inspections* shall include the inspection date(s), the findings of the inspection, and the disposition or scheduling of repairs or maintenance found necessary during the inspection. For each inspection unit, the records of vegetation management shall include the date(s) during which the work was conducted. The ~~record~~ *records* shall be kept until two years after the next periodic inspection or vegetation management action is completed or until all necessary repairs ~~or~~ *and* maintenance are completed, whichever is longer.

**ARC 5609B****ECONOMIC DEVELOPMENT, IOWA  
DEPARTMENT OF[261]****Adopted and Filed Emergency After Notice**

Pursuant to the authority of Iowa Code sections 15.104 and 15.106, the Iowa Department of Economic Development hereby rescinds Chapter 25, "Housing Fund," Iowa Administrative Code, and adopts a new Chapter 25 with the same title.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 5336B** on August 30, 2006.

New Chapter 25 sets new per unit investment limits for new construction and rehabilitation and adds new definitions for "local financial support," "local support," "single-family unit," and "technical services."

A public hearing was held on September 28, 2006, where written and oral comments were accepted. One letter of comment concerning the proposed new chapter was received past the due date for comments but has been considered in the final rules. The comments centered on the proposal to eliminate the use of subrecipient agreements by council of governments (COGs) in their administration of housing programs. The issues raised by the commenter included: the existing ability of COGs to provide professional administration, experienced management of liens and assets in relation to housing programs, reuse of funds where applicable, and consistent delivery of services to clients. After consideration of these comments, the Board did not adopt proposed subrule 25.9(4), which would have eliminated the use of subrecipient agreements. Rather than prohibit all subrecipient agreements, the Department will provide technical assistance to recipients about subrecipient contracts and will include any contract requirements in the recipient-IDED grant agreement to ensure that the appropriate accountability measures are maintained.

The Iowa Economic Development Board adopted this amendment on November 16, 2006.

The Department finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of the amendment, 35 days after publication, should be waived and the amendment be made effective on November 17, 2006. This amendment confers a benefit on the public by implementing the changes immediately in an effort to streamline the application process for the upcoming funding cycle. This will ensure that the new rules are in effect before the November 29, 2006, deadline for filing applications.

The Department is taking the following steps to notify potentially affected parties of the effective date of the new rules: publishing the final rules in the Iowa Administrative Bulletin, providing free copies on request, posting all changes on the Department's Web site and having copies available wherever requests for information about the program are likely to be made.

This amendment is intended to implement Iowa Code section 15.108(1)"a."

This amendment became effective on November 17, 2006.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of this amendment [Ch 25] is being omitted. With the exception

of the change noted above, this amendment is identical to that published under Notice as **ARC 5336B**, IAB 8/30/06.

[Filed Emergency After Notice 11/16/06, effective 11/17/06]  
[Published 12/20/06]

[For replacement pages for IAC, see IAC Supplement 12/20/06.]

**ARC 5608B****ECONOMIC DEVELOPMENT, IOWA  
DEPARTMENT OF[261]****Adopted and Filed Emergency After Notice**

Pursuant to the authority of 2006 Iowa Acts, chapter 1142, section 34, the Iowa Department of Economic Development hereby adopts new Chapter 311, "Renewable Fuel Infrastructure Board—Organization," Chapter 312, "Renewable Fuel Infrastructure Program for Retail Motor Fuel Sites," Chapter 313, "Renewable Fuel Infrastructure Program for Biodiesel Terminal Grants," and Chapter 314, "Renewable Fuel Infrastructure Program Administration," Iowa Administrative Code.

These rules describe the structure of the Renewable Fuel Infrastructure Board and establish application procedures for the Renewable Fuel Infrastructure Program for Retail Motor Fuel Sites and the Renewable Fuel Infrastructure Program Biodiesel Terminal Grants.

Section 34 of 2006 Iowa Acts, chapter 1142 (House File 2754), directed the Department to simultaneously adopt emergency rules and submit proposed rules no later than June 1, 2006, to implement the provisions of Division III, Renewable Fuel Infrastructure Programs. The Iowa Economic Development Board adopted emergency rules and approved proposed rules on May 18, 2006, subject to the Governor's signature of House File 2754. The Governor signed House File 2754 on May 30, 2006. The Adopted and Filed Emergency rules were published in the Iowa Administrative Bulletin as **ARC 5160B** on June 21, 2006; Notice of Intended Action for the proposed rules was simultaneously published in the Iowa Administrative Bulletin as **ARC 5161B**. Members were appointed to the Renewable Fuel Infrastructure Board, and the new board held its first meeting on September 25, 2006.

Public comments concerning the proposed new chapters were accepted by IDED until July 25, 2006. IDED received comments about the proposed rules from the following organizations: the Iowa Soybean Association, Petroleum Marketers and Convenience Stores of Iowa (PMCI), Iowa Motor Truck Association, Agribusiness Association of Iowa, American Petroleum Institute, Smitherman Consulting, and Iowa Renewable Fuels Association (IRFA). In addition to the comments received by IDED during the comment period, the Renewable Fuel Infrastructure Board (RFIB) received comments about the proposed rules at its September 25, 2006, meeting. The RFIB established a subcommittee to review all comments and make recommendations to the RFIB. That subcommittee held a public meeting on October 19, 2006, and accepted additional written and oral comments about the proposed rules. Subcommittee members discussed the comments received and invited attendees in the audience to provide their comments. In attendance were representatives from PMCI, the Iowa Soybean Association, Iowa Grocery Industry Association, Iowa Corn Growers Association,

## ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261](cont'd)

Iowa Institute for Cooperatives, American Petroleum Institute, IRFA, and Iowa Farm Bureau and staff of the Iowa House Republican Caucus and the Iowa House Democratic Caucus.

On October 31, 2006, the RFIB voted to recommend to the Iowa Economic Development Board the following changes to the proposed rules:

1. Amend rule 261—311.1(81GA, ch1142) by adding definitions of “agreement,” “applicant,” “board,” “biodiesel,” “biodiesel blend,” “checklist” or “IDNR checklist,” “grant” or “cost-share grant,” “project,” “rack,” “retail,” and “retail motor fuel site.” The additional definitions clarify terms and ensure that they are used consistently throughout the rules.

2. Amend rule 261—312.1(81GA, ch1142) to clarify that the purpose of the program is to provide grants for improvements to enable the storing and dispensing of E-85 gasoline, biodiesel, or biodiesel blended fuel at sites operated by retail dealers.

3. Delete rules 261—312.2(81GA, HF2754), “Definitions,” and 261—313.2(81GA, HF2754), “Definitions.” These rules are no longer needed because all definitions have been included in rule 261—311.1(81GA, ch1142).

4. Renumber rule 261—312.3(81GA, HF2754), “Eligible applicants,” as 261—312.2(81GA, ch1142), and amend renumbered subrule 312.2(3) to add the eligibility requirements (new paragraphs “a” through “g”) for the Renewable Fuel Infrastructure Program for Retail Motor Fuel Sites as established by the RFIB.

5. Relocate rules 261—312.4(81GA, HF2754), “Form of award available; award amount,” 261—312.5(81GA, HF2754), “Application process,” 261—312.6(81GA, HF2754), “Review process,” 261—312.7(81GA, HF2754), “Application review criteria,” and 261—312.8(81GA, HF2754), “Contract administration,” to new Chapter 314, “Renewable Fuel Infrastructure Program Administration,” and amend them as described in paragraph “10” below, so that all rules governing the application process, review and contract administration are in one chapter rather than in Chapter 312 and Chapter 313 as proposed in the Notice.

6. Change the title of Chapter 313 from “Renewable Fuel Infrastructure Program for Biodiesel Terminal Facilities” to “Renewable Fuel Infrastructure Program for Biodiesel Terminal Grants.”

7. Amend rule 261—313.1(81GA, ch1142) to clarify that the purpose of the program is to provide grants to terminal facilities that store and dispense biodiesel or biodiesel blended fuel for the purpose of distribution to dealers.

8. Renumber rule 261—313.3(81GA, ch1142), “Eligible applicants,” as 261—313.2(81GA, ch1142) and amend renumbered subrule 313.2(3) by adding the eligibility requirements (new paragraphs “a” through “d”) for the Renewable Fuel Infrastructure Program Biodiesel Terminal Grants as established by the RFIB.

9. Relocate rules 261—313.4(81GA, HF2754), “Form of award available; award amount,” 261—313.5(81GA, HF2754), “Application process,” 261—313.6(81GA, HF2754), “Review process,” 261—313.7(81GA, HF2754), “Application review criteria,” and 261—313.8(81GA, HF2754), “Contract administration,” to new Chapter 314, “Renewable Fuel Infrastructure Program Administration,” combine them with the relocated rules from Chapter 312, and amend the combined rules as described in paragraph “10” below, so that all rules governing the application process, review and contract administration are in one chapter rather

than in Chapter 312 and Chapter 313 as proposed in the Notice.

10. Add new Chapter 314, “Renewable Fuel Infrastructure Program Administration,” which includes the relocated rules as noted above from Chapter 312 and Chapter 313 that apply to forms of awards available and award amounts, the application process, the review process, application review criteria, and contract administration. Amend the relocated rules as described below:

- Adopt rule 261—314.1(81GA, ch1142), “Allocation of awards by congressional district.” Adopt final language to allocate by congressional district a prorated amount based on available funding each fiscal year and to reallocate unobligated funds on April 1 of each year.

- Adopt rule 261—314.2(81GA, ch1142), “Form of award available; award amount.” Subrule 314.2(1), “Form of award,” contains the same language as that in subrules 312.4(1) and 313.4(1) of the Notice. Add seven new subrules described below:

- Subrule 314.2(2), “Retroactive grants for projects already completed or in process.” This subrule permits an award to eligible projects that were completed or in the process of being completed on or after July 1, 2005 (the effective date of the predecessor renewable fuel infrastructure grant program).

- Subrule 314.2(3), “Prospective grants for projects not commenced.” This subrule provides that a grant may be awarded for an eligible project not yet commenced.

- Subrule 314.2(4), “Amount of award.” This subrule contains combined language from Chapters 312 and 313 of the Notice regarding the total award amount available under each program. For the Retail Motor Fuel Sites Grants, the limit is \$30,000 or 50 percent of the actual cost of the improvements, whichever is less. For the Biodiesel Terminal Grants, the limit is \$50,000 or 50 percent of the actual cost of the improvements, whichever is less.

- Subrule 314.2(5), “Time of payment.” This subrule states that grant funds shall only be paid upon timely project completion and submittal of the identified documentation: certificate of completion, including a completed IDNR checklist, and proof of financial responsibility (if necessary to meet federal requirements).

- Subrule 314.2(6), “Deadline for completion.” This subrule requires projects to be completed within eight months of the RFIB’s approval of the award.

- Subrule 314.2(7), “Multiple awards.” This subrule contains combined language from Chapters 312 and 313 of the Notice regarding multiple awards. The language in the adopted subrule has been amended to distinguish between awards at a single fuel site and at multiple fuel sites and to clarify that awards will be made fairly and properly among applicants and geographic areas.

- Subrule 314.2(8), “No cross-program double-dipping beyond the per-site maximum.” This subrule prohibits previous grantees under the former renewable fuel infrastructure program from receiving under the new program funding that is beyond the per-site cap (\$30,000 or \$50,000).

- Adopt rule 261—314.3(81GA, ch1142), “Application process.” This rule contains combined language from Chapters 312 and 313 of the Notice regarding the application process. Paragraph 314.3(1)“a” is revised to clarify that applications will be reviewed on a first-come, first-served basis. Subparagraphs 314.3(2)“b”(1) through (7) describe other information required by the RFIB as part of the application process.

## ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261](cont'd)

• Adopt rule 261—314.4(81GA,ch1142), “Review process.” This rule contains combined language from Chapters 312 and 313 of the Notice regarding the review process. Subrule 314.4(1) contains the same language as that proposed in rules 261—312.6(81GA,HF2754) and 261—313.6(81GA,HF2754) of the Notice. Subrule 314.4(2) outlines the criteria the RFIB will use to evaluate applications if requests exceed available funds.

• Adopt rule 261—314.5(81GA,ch1142), “Contract administration.” This rule contains combined language from Chapters 312 and 313 of the Notice regarding contract administration. In this adopted rule, the word “grants” is used instead of “financial assistance” in subrule 314.5(1) when referring to the form of the award, subrule 314.5(2) contains more details about what terms will be included in the grant agreement, and subrule 314.5(3) provides notice that a civil penalty may be imposed if award funds are not used exclusively for renewable fuel as specified in the grant award.

The Economic Development Board approved the recommendations of the RFIB and adopted these rules on November 16, 2006. These adopted rules incorporate the changes described above.

The Department finds, pursuant to Iowa Code section 17A.5(2)“b”(1), that the normal effective date of the rules should be waived and the rules should be made effective upon filing with the Administrative Rules Coordinator on November 16, 2006. The November 16, 2006, emergency effective date provides the Department with time to revise and distribute an application containing the final rule requirements, provides applicants time to file an updated application, and permits the RFIB to take prompt action on completed applications that meet the requirements of the final rules.

These rules became effective November 16, 2006, at which time the previously Adopted and Filed Emergency rules were rescinded.

These rules are intended to implement 2006 Iowa Acts, chapter 1142, sections 28 to 34.

The following amendment is adopted.

Adopt the following **new** Part IX:

PART IX  
RENEWABLE FUEL INFRASTRUCTURE BOARD

CHAPTERS 300 to 310  
Reserved

CHAPTER 311  
RENEWABLE FUEL INFRASTRUCTURE  
BOARD—ORGANIZATION

**261—311.1(81GA,ch1142) Definitions.** As used in these rules, unless the context otherwise requires, the definitions in 2006 Iowa Acts, chapter 1142, section 28, shall apply to this chapter. The following definitions shall also apply:

“Agreement” means the cost-share agreement executed by the department after approval of the grant by the board.

“Applicant” means the owner or operator of a site.

“Biodiesel,” for the purposes of these rules, must be at least B99.

“Biodiesel blend” must contain at least 1 percent biodiesel.

“Board” means the renewable fuel infrastructure board established by 2006 Iowa Acts, chapter 1142, section 29.

“Checklist” or “IDNR checklist” means the most recent version of the Underground Storage Tank System Checklist for Equipment Compatibility with E-Blend Fuels (greater than 10 percent by volume) issued by the Iowa department of natural resources.

“Grant” or “cost-share grant” means moneys awarded by the board on a cost-share basis from the renewable fuel infrastructure fund created by 2006 Iowa Acts, chapter 1142, to help pay for a project.

“Project” means the installation of motor fuel storage or dispensing or distribution equipment, or both, for either E-85 gasoline or biodiesel at a fueling site.

“Rack” means a metered motor fuel, special fuel or renewable fuel loading facility with the capacity to pump fuel at a rate of at least 100 gallons per minute (100 gpm); whether from an overhead, lateral, or underneath position, into a transportation vessel for further delivery.

“Retail” means offered for sale to the public for final consumption.

“Retail motor fuel site” means a site at which motor fuel is offered for sale to the public for final consumption. A retail motor fuel site may include a tank wagon or transport.

**261—311.2(81GA,ch1142) Renewable fuel infrastructure board.**

**311.2(1) Composition.**

a. Board structure. The board shall consist of 11 voting members appointed by the governor. The composition of the board shall be as described in 2006 Iowa Acts, chapter 1142, section 29. Six voting members shall constitute a quorum. An affirmative vote of a majority of voting members, excluding any member who has a conflict of interest, is necessary for the board to take substantive action.

b. Terms. Board members shall be appointed for five-year terms that begin and end as provided by Iowa Code section 69.19. However, the initial members shall be appointed to terms of less than five years to ensure that members serve staggered terms.

c. Department administrative functions. As specified in 2006 Iowa Acts, chapter 1142, section 29(1), the Iowa department of economic development shall perform administrative functions necessary for the management of the infrastructure board, and the infrastructure programs as provided in 261—Chapters 312 and 313. The department shall provide the infrastructure board with the necessary facilities, items, and clerical support.

**311.2(2) Meetings.**

a. The board will generally meet at the department’s offices located at 200 East Grand Avenue, Des Moines, Iowa. By notice of regularly published meeting agendas, the board may hold regular or special meetings at other locations within the state. Meeting agendas will be available on the department’s Web site at [www.iowalifechanging.com](http://www.iowalifechanging.com).

b. The board shall annually elect a chairperson, on a rotating basis, from among its members.

c. Any interested party may attend and observe board and committee meetings except for such portion as may be closed pursuant to Iowa Code section 21.5.

d. Observers may use cameras or recording devices during the course of a meeting so long as the use of such devices does not materially hinder the proceedings. The chairperson may order that the use of these devices be discontinued if they cause interference and may exclude any person who fails to comply with that order.

e. Open session and closed session proceedings will be electronically recorded. Minutes of open meetings will be available for viewing at the department’s offices.

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261](cont'd)

**311.2(3) Duties.** The board shall perform the duties as outlined in 2006 Iowa Acts, chapter 1142, sections 28 to 32, and other functions as necessary and proper to carry out its responsibilities.

**311.2(4) Board committees.** Reserved.

These rules are intended to implement 2006 Iowa Acts, chapter 1142, section 29.

#### CHAPTER 312

##### RENEWABLE FUEL INFRASTRUCTURE PROGRAM FOR RETAIL MOTOR FUEL SITES

**261—312.1(81GA,ch1142) Purpose.** The purpose of the renewable fuel infrastructure program for retail motor fuel sites is to improve a retail motor fuel site by installing, replacing, or converting motor fuel storage and dispensing infrastructure to store and dispense E-85 gasoline, biodiesel, or biodiesel blended fuel at sites operated by retail dealers.

**261—312.2(81GA,ch1142) Eligible applicants.** To be eligible to receive a retail motor fuel site infrastructure grant, an applicant shall:

**312.2(1)** Be an owner or operator of a retail motor fuel site.

**312.2(2)** Submit an application to the department in form and content acceptable to the department and the board.

**312.2(3)** Meet the following eligibility requirements established by the board:

a. The fuel storage and dispensing infrastructure may include either an aboveground or belowground storage tank and ancillary equipment.

b. The fuel storage tank may be on a tank wagon or transport if regularly parked overnight in Iowa.

c. The storage tank must, however, be used exclusively for retail delivery to the final consumer.

d. If a tank has multiple compartments, at least one of the compartments must be used exclusively for the storage and dispensing of E-85 gasoline, biodiesel or biodiesel blended fuel at retail. The compartment used exclusively for the storage of E-85 gasoline, biodiesel or biodiesel blended fuel is considered the tank for purposes of this program.

e. The tank and ancillary equipment must be approved for E-85 gasoline, biodiesel or biodiesel blended fuel use by either the Iowa department of natural resources or the state fire marshal, as evidenced by the most recent IDNR checklist.

f. The dispenser must be described by type and model in a written statement by the manufacturer of the dispenser. The manufacturer's written statement must be signed by a responsible official on behalf of the manufacturer and must be provided either to the applicant or to the Iowa department of natural resources or the state fire marshal. If provided to the applicant, the statement must be kept on file on the premises of the applicant for the four-year term of the agreement. The written statement must state that:

(1) The dispenser is, in the opinion of the manufacturer, not incompatible with E-85 gasoline; and

(2) The manufacturer has initiated the process of applying to an independent testing laboratory for listing of the equipment used in dispensing E-85 gasoline.

g. Conversion kits. If a UL-listed E-85 dispenser conversion kit is used, it must be approved by the state fire marshal to be eligible for the E-85 grant.

These rules are intended to implement 2006 Iowa Acts, chapter 1142, section 30.

#### CHAPTER 313

##### RENEWABLE FUEL INFRASTRUCTURE PROGRAM FOR BIODIESEL TERMINAL GRANTS

**261—313.1(81GA,ch1142) Purpose.** The purpose of the renewable fuel infrastructure program biodiesel terminal grants is to provide grants to terminal facilities that store and dispense biodiesel or biodiesel blended fuel for the purpose of distribution to dealers.

**261—313.2(81GA,ch1142) Eligible applicants.** To be eligible to receive a biodiesel terminal grant, an applicant shall:

**313.2(1)** Be an owner or operator of a biodiesel terminal.

**313.2(2)** Submit an application to the department in form and content acceptable to the department and the board.

**313.2(3)** Meet the following eligibility requirements established by the board:

a. The terminal must not be a retail motor fuel site.

b. The terminal must not be a facility at which fuel or blend stocks are used in the manufacture of products other than motor fuel and from which no fuel is removed.

c. The terminal must have at least one storage tank of at least a 10,000-gallon capacity, used exclusively for or dedicated exclusively to the storage of biodiesel fuel. The terminal may also have storage for one or more biodiesel blends. The terminal must have facilities for the dispensing of either biodiesel, biodiesel blends, or both.

d. The dispensing of motor fuel at the terminal must be done at a rack in excess of 100 gpm pumping capacity.

These rules are intended to implement 2006 Iowa Acts, chapter 1142, section 31.

#### CHAPTER 314

##### RENEWABLE FUEL INFRASTRUCTURE PROGRAM ADMINISTRATION

**261—314.1(81GA,ch1142) Allocation of awards by congressional district.** The board shall use the boundaries of the state's five congressional districts, and prorate and equally distribute the amount available each fiscal year for each district. The board shall have at its discretion a prorated amount (up to \$500,000) to distribute to any congressional district. On April 1 of each year, if funds allocated to a district have not been committed, the unobligated balance shall revert to the reserve fund and be available for other projects approved by the board.

**261—314.2(81GA,ch1142) Form of award available; award amount.**

**314.2(1)** Form of award. Eligible applicants may apply for financial incentives on a cost-share basis. Funding shall be available in the form of a grant.

**314.2(2)** Retroactive grants for projects already completed or in process. A grant may be awarded for an eligible project already completed or in the process of being completed on or after July 1, 2005, the effective date of the original grant program. This stipulation is true even if the project was not funded under the infrastructure program implemented pursuant to Iowa Code Supplement section 15.401.

**314.2(3)** Prospective grants for projects not commenced. A grant may be awarded for an eligible project not yet commenced.

**314.2(4)** Amount of award. The maximum award limit per project shall not exceed \$30,000 or 50 percent of the actual cost of making the improvements, whichever is less, in the case of retail motor fuel site grants, or \$50,000 or 50 percent of the actual cost of making the improvements, whichever is less, in the case of biodiesel terminal grants.

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261](cont'd)

**314.2(5)** Time of payment. The grant shall be paid only upon timely completion of the project and upon the board's receipt of records satisfying the board of the applicant's qualifying expenditures.

a. The applicant must deliver to the board prior to payment a certificate of completion on the board's form.

b. The certificate of completion must include the IDNR checklist completed and signed by an Iowa-certified installer showing review and approval of the completed project.

c. The certificate of completion must be accompanied by proof of financial responsibility as necessary to meet federal requirements for underground storage tank installation.

**314.2(6)** Deadline for completion. The project must be completed within eight months of the board's approval of the award. An extension may be granted by the board upon application showing demonstrable progress toward completion.

**314.2(7)** Multiple awards.

a. At a single fuel site. The board may approve multiple awards for projects at a single site provided the total amount of the awards at that site does not in the aggregate exceed 50 percent of the actual cost of making the improvement or \$30,000 in the case of E-85 gasoline, biodiesel or biodiesel blended fuel grants, whichever is less, or 50 percent of the actual cost of making the improvement or \$50,000 in the case of biodiesel terminal grants, whichever is less, at that motor fuel site during the triennium ending June 30, 2012.

b. At multiple fuel sites. An applicant may apply for and be granted multiple grants for different motor fuel sites. The \$30,000/50 percent and \$50,000/50 percent limits described in subrule 314.2(4) apply only to individual motor fuel sites. However, the board shall make awards fairly and properly among applicants and geographic areas.

c. In the event that funding will be exhausted at the end of the fiscal year, the board shall approve remaining applications based on criteria implemented by the board as set forth in subrule 314.4(2).

**314.2(8)** No cross-program double-dipping beyond the per-site maximum. No project which has been funded under the infrastructure program administered pursuant to Iowa Code Supplement section 15.401 is eligible for funding under this program beyond the applicable program per-site cap of \$30,000 or \$50,000.

**261—314.3(81GA,ch1142) Application process.**

**314.3(1)** Application procedures.

a. Applications may be submitted at any time, but will be reviewed on a first-come, first-served basis as established by the date stamp on the filed application.

b. Applications shall be submitted to: Renewable Fuel Infrastructure Board, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309. Application forms and instructions are available at this address.

**314.3(2)** Contents of application.

a. Statutory requirements. An application shall include the information required in 2006 Iowa Acts, chapter 1142, section 30(4)"b."

b. Other information required by the board:

(1) Assurance that the project will be for the purpose of installing, replacing, or converting equipment for the storage or dispensing of the renewable fuel under consideration.

(2) Assurance that all equipment funded by the grant is designed and will be used exclusively to store or dispense E-85 gasoline, biodiesel or biodiesel blended fuel, respectively, for the period specified in the agreement.

(3) An IDNR checklist indicating the current status of the site.

(4) Assurance of compliance with any and all federal requirements for financial responsibility.

(5) Assurance of compliance with any and all state and federal laws and regulations.

(6) A cost proposal from an Iowa-licensed underground storage tank installer (for underground storage projects) and a qualified aboveground storage tank installer (for aboveground storage projects).

(7) Documentation of initiation of the process of applying to an independent laboratory and the manufacturer's written statement that the dispenser is "not incompatible."

**261—314.4(81GA,ch1142) Review process.**

**314.4(1)** The department shall forward completed applications to the underground storage tank fund board for evaluation and recommendation, as specified in 2006 Iowa Acts, chapter 1142, section 30(2). The underground storage tank fund board shall then forward the applications to the renewable fuel infrastructure board for final approval or disapproval. The renewable fuel infrastructure board shall determine the amount of financial incentives to be awarded to an applicant.

**314.4(2)** Completed applications, including supporting documentation of meeting eligibility requirements, will be reviewed on a first-come, first-served basis. If the amount of funding requests exceeds available funds, the board shall evaluate applications based upon criteria that include, but are not limited to, the following:

a. Submittal of a completed application, including supporting documentation.

b. Location factors such as demographics, proximity to major transportation corridors, and proximity to existing renewable fuel retail and storage facilities.

c. Projected annual sales volume.

d. Other sources of funding.

e. Previous grants awarded.

**261—314.5(81GA,ch1142) Contract administration.**

**314.5(1)** Notice of award. The department shall notify approved applicants in writing of the board's award of grants, including any conditions and terms of the approval.

**314.5(2)** Contract required. The board shall direct the department to prepare a cost-share agreement which shall include terms and conditions of the grant established by the board. The agreement will:

a. Describe the project in sufficient detail to demonstrate the eligibility of the project.

b. State the total cost of the project expressed in a project budget included in sufficient detail to meet the requirements of the infrastructure board.

c. State the project completion deadline.

d. State the project completion requirements which are preconditions for payment of the grant by the board.

e. Recite the penalty for the storage or dispensing, within the stated time frame of three years from submission of verified documentation of project completion, of motor fuel other than the type of renewable fuel for which the grant was awarded.

**314.5(3)** Repayment penalty for nonexclusive renewable fuel use. In the absence of a waiver from the board, the department may impose a civil penalty due to a grantee's use of infrastructure equipment for which a grant was awarded, for the storage or dispensing, within the time frame stated in the agreement, of motor fuel other than the type of renewable fuel for which the grant was awarded.

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261](cont'd)

These rules are intended to implement 2006 Iowa Acts, chapter 1142, sections 28 to 34.

[Filed Emergency After Notice 11/16/06, effective 11/16/06]  
[Published 12/20/06]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/20/06.

## ARC 5617B

### PUBLIC SAFETY DEPARTMENT[661]

#### Adopted and Filed Emergency

Pursuant to the authority of 2006 Iowa Acts, chapter 1090, section 6, the Building Code Commissioner hereby amends Chapter 372, "Manufactured or Mobile Home Retailers, Manufacturers, and Distributors," Iowa Administrative Code.

2006 Iowa Acts, chapter 1090, transfers responsibility for licensing of manufactured or mobile home retailers, manufacturers, and distributors from the Department of Transportation to the Department of Public Safety, effective January 1, 2007. A rule-making process was recently completed to adopt Chapter 372, which will become effective on January 1, 2007. Several essential items were omitted from that rule making and are adopted herein, including provisions for licensee discipline related to delinquent child support, which Iowa Code chapter 252J requires of all licensure programs operated by state agencies; provisions for appeals of disciplinary action against licensees; and provisions for applying for waivers of the rules contained in Chapter 372.

In order for these amendments to be effective when the administration of the licensing program by the Department of Public Safety commences on January 1, 2007, these amendments are Adopted and Filed Emergency and will also become effective on January 1, 2007.

Notice of Intended Action on these amendments is published herein as **ARC 5616B** to allow for public comment. A public hearing on the proposed amendments will be held on January 19, 2007, at 9:30 a.m. in the Fire Marshal Division Conference Room, 401 S.W. 7th Street, Suite N, Des Moines, Iowa 50309.

Pursuant to Iowa Code section 17A.4(2), the Building Code Commissioner finds that notice and public participation prior to the adoption of these amendments are impractical. These amendments need to be effective by January 1, 2007, so that the rules for licensing of manufactured or mobile home retailers, manufacturers, and distributors are fully compliant with Iowa law when the amendments become effective.

Pursuant to Iowa Code section 17A.5(2)"b"(2), the Building Code Commissioner further finds that the normal effective date of these amendments, 35 days after publication, should be waived and these amendments made effective January 1, 2007, after filing with the Administrative Rules Coordinator. These amendments confer a benefit upon the public by clarifying the provisions for licensee discipline related to child support recovery, and appeal and waiver procedures.

These amendments are intended to implement 2006 Iowa Acts, chapter 1090.

These amendments will become effective on January 1, 2007.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are adopted.

ITEM 1. Amend rule 661—372.5(103A) by adopting the following **new** subrules:

**372.5(4)** Suspension or revocation for nonpayment of child support. The following procedures shall apply to actions taken by the building code commissioner on a certificate of noncompliance received from the Iowa department of human services pursuant to Iowa Code chapter 252J:

a. The notice required by Iowa Code section 252J.8 shall be served upon the licensee by restricted certified mail, return receipt requested, or personal service in accordance with Iowa Rule of Civil Procedure 1.305. Alternatively, the licensee may accept service personally or through authorized counsel.

b. The effective date of revocation or suspension of certification of a licensee, as specified in the notice required by Iowa Code section 252J.8, shall be 60 days following service upon the licensee.

c. Licensees shall keep the building code commissioner informed of all court actions and all child support recovery unit actions taken under or in connection with Iowa Code chapter 252J and shall provide the building code commissioner with copies, within 7 days of filing or issuance, of all applications filed with the district court pursuant to Iowa Code section 252J.9, all court orders entered in such actions, and withdrawals of certificates of noncompliance by the child support recovery unit.

d. All applicable fees for an application or reinstatement must be paid by the licensee before a license will be issued, renewed, or reinstated after the building code commissioner has denied the issuance or renewal of a license or has suspended or revoked a license pursuant to Iowa Code chapter 252J.

e. In the event a licensee files a timely district court action following service of a notice pursuant to Iowa Code sections 252J.8 and 252J.9, the building code commissioner shall continue with the intended action described in the notice upon the receipt of a court order lifting the stay, dismissing the action, or otherwise directing the department to proceed. For the purpose of determining the effective date of revocation or suspension of the certification, the building code commissioner shall count the number of days before the action was filed and the number of days after the action was disposed of by the court.

f. Suspensions or revocations imposed pursuant to this subrule may not be appealed administratively within the department of public safety.

NOTE: The procedures established in subrule 372.5(4) implement the requirements of Iowa Code chapter 252J. The provisions of Iowa Code chapter 252J establish mandatory requirements for an agency which administers a licensure program, such as the one established in this chapter, and provide that actions brought under these provisions are not subject to contested case procedures established in Iowa Code chapter 17A, but must be appealed directly to district court.

**372.5(5)** Appeals. Any denial, suspension, or revocation of a certification, or any civil penalty imposed upon a licensee under this rule, other than one imposed pursuant to subrule 372.5(4), may be appealed by the licensee within 14 days of receipt of the notice. Appeals of actions taken by the building code commissioner under this rule shall be to the

PUBLIC SAFETY DEPARTMENT[661](cont'd)

commissioner of public safety and shall be treated as contested cases, following the procedures established in rules 661—10.301(17A) through 661—10.332(17A).

ITEM 2. Adopt the following **new** rule:

**661—372.9(17A,103A) Waivers.** Applications for waivers of the provisions of the rules in this chapter may be submitted and shall be considered under the procedures and criteria established in rule 661—10.222(17A), except for the following:

1. Petitions for waivers shall be addressed to:  
Building Code Commissioner  
Fire Marshal Division  
Iowa Department of Public Safety  
401 S.W. 7th Street, Suite N  
Des Moines, Iowa 50309

2. Consideration of and determinations regarding requests for waivers of any provision of this chapter shall be the responsibility of the building code commissioner. Any reference to “department” in rule 661—10.222(17A) shall be replaced, for purposes of this rule, with “building code commissioner.”

[Filed Emergency 11/29/06, effective 1/1/07]

[Published 12/20/06]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/20/06.

**ARC 5610B**  
**ARCHITECTURAL EXAMINING  
BOARD[193B]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 544A.29, the Architectural Examining Board hereby amends Chapter 2, "Registration," Iowa Administrative Code.

The amendments to Chapter 2 provide a registrant the opportunity to reinstate to "inactive" status if the registrant is no longer providing architectural services in the state and rescind the requirement that an architectural firm renew an Authorization to Practice Architecture as a Business Entity once the initial application is approved. However, the Board will continue to require that firms provide notification to the Board of any change in business name, address, or ownership.

These amendments are subject to waiver or variance pursuant to 193—Chapter 5.

Notice of Intended Action was published in the Iowa Administrative Bulletin on October 11, 2006, as **ARC 5445B**. No written or oral comments were received. There are no changes to the amendments published under Notice of Intended Action.

The Board adopted these amendments on November 16, 2006.

These amendments are intended to implement Iowa Code chapters 17A and 544A.

These amendments shall become effective January 24, 2007.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [2.6 to 2.11] is being omitted. These amendments are identical to those published under Notice as **ARC 5445B**, IAB 10/11/06.

[Filed 11/22/06, effective 1/24/07]  
[Published 12/20/06]

[For replacement pages for IAC, see IAC Supplement 12/20/06.]

**ARC 5613B**  
**ENGINEERING AND LAND  
SURVEYING EXAMINING  
BOARD[193C]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 542B.6, the Engineering and Land Surveying Examining Board amends Chapter 4, "Engineering Licensure," Iowa Administrative Code.

Notice of Intended Action was published in the Iowa Administrative Bulletin on August 16, 2006, as **ARC 5313B**. This amendment is identical to that published under Notice of Intended Action.

This amendment clarifies the rule regarding the work experience prior to graduation from college that may be accept-

ed toward satisfaction of professional experience requirements for eligibility for the professional engineering examination. The only internships that will be accepted are those administered by engineering colleges.

Waiver of these rules may be sought pursuant to 193—Chapter 5.

This amendment was adopted by the Board on November 9, 2006.

This amendment will become effective January 24, 2007.

This amendment is intended to implement Iowa Code sections 542B.2, 542B.13, 542B.14, 542B.15, 542B.17, and 542B.20.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of this amendment [4.1(7)"d"] is being omitted. This amendment is identical to that published under Notice as **ARC 5313B**, IAB 8/16/06.

[Filed 11/29/06, effective 1/24/07]  
[Published 12/20/06]

[For replacement pages for IAC, see IAC Supplement 12/20/06.]

**ARC 5614B**  
**ENGINEERING AND LAND  
SURVEYING EXAMINING  
BOARD[193C]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 542B.6, the Engineering and Land Surveying Examining Board amends Chapter 9, "Complaints, Investigations and Disciplinary Action," Iowa Administrative Code.

Notice of Intended Action was published in the Iowa Administrative Bulletin on August 16, 2006, as **ARC 5314B**. This amendment is identical to that published under Notice of Intended Action.

This amendment updates the method by which complaints can be submitted to the Board to include mail, E-mail, facsimile or personal delivery; clarifies the meaning of "complainant" and "respondent"; adds an explanation of initial complaint screening by the Board's administrator; adds immunity from civil liability and employment protection for the complainant; and describes the role of the complainant and the role of the Board in the investigation process.

The purpose of this amendment is to provide additional information and clarification for those who need to use the complaint process.

Waiver of these rules may be sought pursuant to 193—Chapter 5.

This amendment was adopted by the Board on November 9, 2006.

This amendment will become effective January 24, 2007.

This amendment is intended to implement Iowa Code chapter 17A and sections 272C.6, 542B.6, and 542B.22.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of this amendment [9.1] is being omitted. This amendment is

ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C](cont'd)

identical to that published under Notice as **ARC 5314B**, IAB 8/16/06.

[Filed 11/29/06, effective 1/24/07]  
[Published 12/20/06]

[For replacement pages for IAC, see IAC Supplement 12/20/06.]

## ARC 5618B

### LABOR SERVICES DIVISION[875]

#### Adopted and Filed

Pursuant to the authority of Iowa Code subsection 88B.3(2) and section 91C.6, the Labor Commissioner hereby amends Chapter 150, "Construction Contractor Registration," and Chapter 155, "Asbestos Removal and Encapsulation," Iowa Administrative Code.

The amendments update references contained in the rules; require that contractors relinquish registration certificates that are revoked; and substitute the North American Industrial Classification System for the Standard Industrial Classification. The amendments allow an asbestos worker to perform covered activities for up to 14 days from issuance of the proper license if the issuance of the license is reflected on the Division of Labor Services' Web site.

In order to conform to 2006 Iowa Acts, chapter 1176, section 21, the limits for being exempt from Iowa Code chapter 91C and for being exempt from the registration fee in chapter 91C are raised from \$1,000 to \$2,000. Items 1, 4, and 6 were also Adopted and Filed Emergency with a July 1, 2006, effective date.

The purposes of these amendments are to protect the health and safety of the public, to implement legislative intent, and to keep the rules current.

No waiver provision is contained in these rules because a waiver provision is contained in 875 Iowa Administrative Code Chapter 1.

Notice of Intended Action was published in the July 19, 2006, Iowa Administrative Bulletin as **ARC 5253B**. (Items 1, 4, and 6 were Adopted and Filed Emergency as **ARC 5252B** and published on the same date.) No member of the public submitted comments concerning the Notice of Intended Action. The adopted amendments are identical to those published under Notice.

These amendments are intended to implement Iowa Code chapters 88B and 91C and 2006 Iowa Acts, chapter 1176.

These amendments will become effective January 24, 2007, at which time the Adopted and Filed Emergency amendments are hereby rescinded.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amendments to Chs 150, 155] is being omitted. These amendments are identical to those published under Notice as **ARC 5253B**, IAB 7/19/06.

[Filed 11/30/06, effective 1/24/07]  
[Published 12/20/06]

[For replacement pages for IAC, see IAC Supplement 12/20/06.]

## ARC 5622B

### PHARMACY EXAMINERS BOARD[657]

#### Adopted and Filed

Pursuant to the authority of Iowa Code section 147.76, the Board of Pharmacy Examiners hereby amends Chapter 8, "Universal Practice Standards," Iowa Administrative Code.

The amendment requires a pharmacy that intends to close permanently to notify all current patients with active prescriptions of the intended closure. The amendment requires a pharmacy to inform those patients of their right to transfer their active prescriptions to a pharmacy of the patients' choosing. Except for the case of an emergency or unforeseeable closure of the pharmacy, patient notification shall be made at least two weeks prior to the pharmacy's closing.

Requests for waiver or variance of the discretionary provisions of this rule will be considered pursuant to 657—Chapter 34.

Notice of Intended Action was published in the September 27, 2006, Iowa Administrative Bulletin as **ARC 5398B**. The Board received one written comment, suggesting a more prescriptive requirement relating to public notice and patient notification of at least 30 days' notice prior to the pharmacy's closing. The Board did not make further amendments, and the adopted amendment is identical to that published under Notice.

The amendment was approved during the November 14, 2006, meeting of the Board of Pharmacy Examiners.

This amendment will become effective on January 24, 2007.

This amendment is intended to implement Iowa Code sections 155A.13 and 155A.19.

The following amendment is adopted.

Amend subrule **8.35(7)** by adding new paragraph "b" as follows and relettering existing paragraphs "b," "c," and "d" as paragraphs "c," "d," and "e":

b. Pharmacy patients with active prescriptions on file with a pharmacy that intends to close permanently shall be notified by that pharmacy, via direct mail or public notice at least two weeks prior to the closure of the pharmacy, that each patient has the right to transfer the patient's active prescriptions to a pharmacy of the patient's choosing. This paragraph shall not apply in the case of an emergency or unforeseeable closure including, but not limited to, emergency board action, foreclosure, fire, or natural disaster.

[Filed 11/30/06, effective 1/24/07]  
[Published 12/20/06]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/20/06.

## ARC 5621B

### PHARMACY EXAMINERS BOARD[657]

#### Adopted and Filed

Pursuant to the authority of Iowa Code sections 147.76 and 272C.4, the Board of Pharmacy Examiners hereby

## PHARMACY EXAMINERS BOARD[657](cont'd)

amends Chapter 36, "Discipline," Iowa Administrative Code.

The amendment establishes, as a ground for disciplinary action, the failure of a licensee or registrant to timely provide to the Board or the Board's agent prescription fill data or any other required pharmacy or controlled substances record.

Grounds for disciplinary action are not subject to waiver or variance.

Notice of Intended Action was published in the September 27, 2006, Iowa Administrative Bulletin as **ARC 5397B**. The Board received no comments regarding the amendment. The adopted amendment is identical to that published under Notice.

The amendment was approved during the November 14, 2006, meeting of the Board of Pharmacy Examiners.

This amendment will become effective on January 24, 2007.

This amendment is intended to implement Iowa Code sections 124.304, 155A.6, 155A.12, 155A.15, 155A.17, 272C.3, and 272C.4.

The following amendment is adopted.

Amend subrule **36.1(4)** by adding new paragraph "**ag**" as follows:

ag. Failure to timely provide to the board or a representative of the board prescription fill data or other required pharmacy or controlled substances records.

[Filed 11/30/06, effective 1/24/07]

[Published 12/20/06]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/20/06.

**ARC 5625B****RECORDS COMMISSION[671]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 305.8, the State Records Commission hereby amends Chapter 1, "Organization and Responsibilities," Iowa Administrative Code.

The amendment clarifies definitions to be applied as state agencies implement their duties and responsibilities for management of government records.

Notice of Intended Action was published in the Iowa Administrative Bulletin on October 11, 2006, as **ARC 5447B**.

The Records Commission sought input about the amendment by holding a public hearing. No members of the public provided comment. This amendment is identical to that published under Notice.

The Records Commission chairperson adopted the amendment on December 1, 2006.

This amendment is intended to implement Iowa Code chapter 305.

This amendment will become effective January 24, 2007.

The following amendment is adopted.

Amend rule 671—1.2(305) as follows:

**671—1.2(305) Definitions.** The definitions that apply to 671—Chapters 1 to 8 and 14 shall be as follows and as set forth in Iowa Code Supplement section 305.2, unless otherwise specified.

"Non-record materials" means documents and informational materials that do not meet the statutory definition of a

record (Iowa Code section 305.2(9)) or that are excluded from the definition. Non-record materials include library and museum material made or acquired and preserved solely for reference or exhibition purposes, stocks of publications and unprocessed forms, and extra copies of documents made, acquired or received only for convenience or reference purposes.

"Office of record" means the agency in which a record, as defined in Iowa Code section 305.2, is created, produced, executed or received in connection with official business of that agency. The office of record is responsible for maintenance and disposition of records in accordance with approved records series retention and disposition schedules.

"Record" means a document, book, paper, electronic record, photograph, sound recording, or other material, regardless of physical form or characteristics, made, produced, executed, or received pursuant to law in connection with the transaction of official business of state government.

"Reference copy" is a copy of a record kept for easy access to the information the record contains. A reference copy of a record may be distributed to make recipients aware of the content of the record but not to direct the recipient to take action on a matter.

[Filed 12/1/06, effective 1/24/07]

[Published 12/20/06]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/20/06.

**ARC 5611B****UTILITIES DIVISION[199]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 17A.4 and Iowa Code chapters 476B and 476C, the Utilities Board (Board) gives notice that on November 22, 2006, the Board issued an order in Docket No. RMU-06-7, In re: Wind and Renewable Energy Tax Credits, "Order Adopting Rule Making." The Board is adopting amendments to 199 IAC 15.18(476B) and 15.19(476C) and new rules 199 IAC 15.20(476B) and 15.21(476C).

Iowa Code chapters 476B and 476C assign the Board two specific roles in implementing tax credits for energy produced by large wind facilities (chapter 476B) and by smaller wind and renewable energy facilities (chapter 476C). On January 26, 2006, the Board issued an order adopting rules addressing its first role, processing applications for facility eligibility. The adopted amendments to 199 IAC 15.18(476B) and 15.19(476C) are designed to implement statutory changes to Iowa Code chapters 476B and 476C enacted in 2006 Iowa Acts, chapter 1135.

The two new adopted rules, 199 IAC 15.20(476B) and 15.21(476C), address the Board's second role, accepting and reviewing the tax credit applications and forwarding the applications to the Department of Revenue. Under Iowa Code chapters 476B and 476C, the Department of Revenue is responsible for processing the tax credit applications and issuing tax credit certificates.

Notice of Intended Action for Docket No. RMU-06-7 was published in IAB Vol. XXIX, No. 7 (9/27/06) p. 443, as **ARC 5400B**. The Consumer Advocate Division of the Department of Justice (Consumer Advocate) filed written comments on October 17, 2006. No other substantive written

## UTILITIES DIVISION[199](cont'd)

comments were filed, although Interstate Power and Light Company filed a letter in lieu of comments stating it had no comment on the proposed rules. An oral presentation was held on November 7, 2006. No oral comments were received.

Consumer Advocate proposed parallel changes to 199 IAC 15.20(1)“a”(11) and 15.21(1)“a”(9), which relate to the information to be included in tax credit applications under Iowa Code chapters 476B and 476C. Consumer Advocate’s first proposed change explicitly links the facility ownership information to the specific energy production period for which tax credits are being sought. Consumer Advocate proposed to add the phrase “during the period for which wind energy tax credits will be sought under Iowa Code chapter 476B” to the first sentence of 199 IAC 15.20(1)“a”(11) and to add the phrase “during the period for which renewable energy tax credits will be sought under Iowa Code chapter 476C” to the second sentence of 199 IAC 15.21(1)“a”(9). These proposed changes provide useful clarification and are reflected in the adopted rules.

Consumer Advocate proposed two other changes to 199 IAC 15.20(1)“a”(11) and 15.21(1)“a”(9). Consumer Advocate proposed to delete the last sentence in each of these proposed subparagraphs and replace it with the following: “Applicant shall identify any changes in ownership information that have occurred since reporting this information in the original application for facility eligibility under 199 IAC 15.18 (or 15.19), as amended.”

These proposed changes by Consumer Advocate would strike the requirement that ownership information in the tax credit application must match the ownership information in the original facility application, as amended, and replace it with a requirement to update any ownership changes since the application for facility eligibility. Consumer Advocate states that it is concerned the Board’s proposed rules could be interpreted as requiring a new facility application if the facility’s ownership changes after its original eligibility application is filed, resulting in a loss of position on the eligibility waiting list, commonly referred to as the queue. Consumer Advocate believes this might discourage full disclosure of ownership changes and states that its proposed revisions would place the burden on the owner to identify any ownership changes and would allow the Board to consider such ownership changes when the Board gives its opinion on the completeness of the tax credit application.

After reviewing the comments, the Board does not find the changes to be warranted. If ownership changes pose a potential problem for maintaining a facility’s original eligibility status, it would be better for prospective owners to resolve this issue before the ownership change rather than after the ownership change, when the tax credit application has already been filed. If applicants have a concern that amending their original eligibility applications might jeopardize the facility’s eligibility status, they can seek a declaratory ruling prior to effecting the ownership change. Consumer Advocate’s suggestion that uncertainty about the impact of ownership changes on eligibility might give applicants an incentive to falsify ownership information in their tax credit applications may be correct, but this uncertainty and incentive

would also apply if the ownership change issue were postponed until after the tax credit application is filed.

The Board also believes that reinserting the phrase “as amended” to 199 IAC 15.20(1)“a”(11) and 15.21(1)“a”(9) might address some of Consumer Advocate’s concerns. This phrase was in the noticed rule making but was deleted editorially prior to publication because it was inserted in a grammatically incorrect place, where it appeared that the phrase was referring to amended rules, not amended applications. The phrase in the adopted rules has been moved to make it clear that it refers to amended applications, not amended rules.

As a result of the changes noted above, subparagraphs 199 IAC 15.20(1)“a”(11) and 15.21(1)“a”(9) now read as follows:

“(11) Information regarding the facility owners, including the name, address, and tax identification number of each owner, and the percentage of equity interest held by each owner during the period for which wind energy tax credits will be sought under Iowa Code chapter 476B. If an owner is other than a natural person, information regarding the equity owners must also be provided. This information shall be consistent with information provided in the original application for facility eligibility, as amended, under 199 IAC 15.18(476B).”

“(9) Information regarding the facility owners or designated eligible purchaser, including the name, address, and tax identification number of each owner or purchaser. If the application is filed by the facility owners, this shall also include the percentage of equity interest held by each owner during the period for which renewable energy tax credits will be sought under Iowa Code chapter 476C. This information shall be consistent with ownership information provided in the original application for facility eligibility, as amended, under 199 IAC 15.19(476C).”

Because the changes to the noticed rules are in response to public comment and are for clarification only, no additional notice prior to adoption of these amendments is required. The Board does not find it necessary to adopt a separate waiver provision in this rule making. The Board’s general waiver provision in 199 IAC 1.3(17A,474,476,78GA, HF2206) is applicable to these rules.

These amendments will become effective on January 24, 2007.

These amendments are intended to implement Iowa Code chapters 476B and 476C.

EDITOR’S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [15.18(1), 15.18(4), 15.18(6), 15.19(1), 15.19(4) to 15.19(6), 15.20, 15.21] is being omitted. With the exception of the changes noted above, these amendments are identical to those published under Notice as **ARC 5400B**, IAB 9/27/06.

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